

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

WILLIAM J MCGEE
Claimant

HY-VEE INC
Employer

APPEAL 20A-UI-13047-DZ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 08/02/20
Claimant: Appellant (1)

Iowa Code § 96.4(3) – Ability to and Availability for Work
Iowa Admin. Code r. 871-24.23(10) – Able & Available – Leave of Absence

STATEMENT OF THE CASE:

William J McGee, the claimant/appellant, filed an appeal from the October 15, 2020, (reference 01) unemployment insurance decision that denied benefits. The parties were properly notified of the hearing. A telephone hearing was held on December 17, 2020. The claimant participated and testified. The employer did not participate. Claimant's Exhibit A was admitted into evidence.

ISSUE:

Was the claimant discharged for disqualifying job-related misconduct?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant works as a full-time freezer/warehouse receiver for the employer.

In March 2020, the United States declared a public health emergency because of the COVID-19 pandemic. The claimant took vacation leave the week of July 27-31, 2020. Toward the end of the prior week and during his vacation leave, the claimant had a cough. The claimant was tested for COVID-19 on July 29, while he was on vacation leave, and his doctor advised him to self-quarantine for 10 days beginning that day. The claimant notified his employer, self-quarantined until August 8 and returned to work on August 10.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant is not able to work and available for work July 27 through August 7.

Iowa Code section 96.4(3) provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

3. The individual is able to work, is available for work, and is earnestly and actively seeking work. This subsection is waived if the individual is deemed partially unemployed, while employed at the individual's regular job, as defined in section 96.19, subsection 38, paragraph "b", unnumbered paragraph (1), or temporarily unemployed as defined in section 96.19, subsection 38, paragraph "c". The work search requirements of this subsection and the disqualification requirement for failure to apply for, or to accept suitable work of section 96.5, subsection 3 are waived if the individual is not disqualified for benefits under section 96.5, subsection 1, paragraph "h".

Iowa Admin. Code r. 871-24.23(10) provides:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(10) The claimant requested and was granted a leave of absence, such period is deemed to be a period of voluntary unemployment and shall be considered ineligible for benefits for such period.

Here, claimant was on vacation leave July 27-31 and was on a leave of absence due to self-quarantining on his doctor's direction August 3-7. Claimant was not able to and available for work from July 27 through August 7, even under the United States Department of Labor's guidance to flexibly interpret this requirement. See Unemployment Insurance Program Letter No. 10-20. Therefore, claimant is not eligible for regular, state-funded unemployment insurance benefits from the effective date of the claim, August 2.

Even though claimant is not eligible for regular unemployment insurance benefits under state law, the claimant may be eligible for federally funded unemployment insurance benefits under the Coronavirus Aid, Relief, and Economic Security Act ("Cares Act"), Public Law 116-136. Section 2102 of the CARES Act creates a new temporary federal program called Pandemic Unemployment Assistance (PUA) that in general provides up to 39 weeks of unemployment benefits. An individual receiving PUA benefits may also receive the \$600 weekly benefit amount (WBA) under the Federal Pandemic Unemployment Compensation (FPUC) program if he or she is eligible for such compensation for the week claimed.

DECISION:

The October 15, 2020, (reference 01) unemployment insurance decision is affirmed. The claimant was not able to work and available for work July 27 through August 7, and regular, state-funded unemployment insurance benefits are denied. Claimant may be eligible for Pandemic Unemployment Assistance.



Daniel Zeno
Administrative Law Judge

December 29, 2020
Decision Dated and Mailed

dz/scn

NOTE TO CLAIMANT:

- This decision determines you are not eligible for regular unemployment insurance benefits under state law. If you disagree with this decision you may file an appeal to the Employment Appeal Board by following the instructions on the first page of this decision.
- If you do not qualify for regular unemployment insurance benefits under state law and are currently unemployed for reasons related to COVID-19, you may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility under the program.** For more information on how to apply for PUA, go to <https://www.iowaworkforcedevelopment.gov/pua-information>. **If you do not apply for and are not approved for PUA, you may be required to repay the benefits you've received so far.**