

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**ENRIQUE HUARACHA JR**  
Claimant

**MONSANTO PRODUCTION SUPPLY LLC**  
Employer

**APPEAL 22A-UI-00291-DZ-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 11/15/20**  
**Claimant: Appellant (4)**

Iowa Code § 96.4(3) – Able to and Available for Work  
Iowa Admin. Code r. 871-24.23(26) – Same Hours and Wages  
Iowa Code § 96.1A(37) – Total and Partial Unemployment  
Iowa Code § 96.7(2)a(2) – Same Base Period Employment  
Iowa Admin. Code r. 871-24.22(2)i – On-Call Workers

**STATEMENT OF THE CASE:**

Enrique Huaracha Jr, the claimant/appellant, filed an appeal from the November 23, 2021, (reference 01) unemployment insurance (UI) decision that denied benefits as of October 17, 2021 because he was still employed in his on-call job. The parties were properly notified of the hearing. A telephone hearing was held on January 24, 2022. Mr. Huaracha Jr participated and testified. The employer did not participate in the hearing. The administrative law judge took official notice of the administrative record.

**ISSUES:**

Is Mr. Huaracha Jr able to and available for work?  
Is Mr. Huaracha Jr temporarily or partially unemployed?  
If so, is the employer's account subject to charge?

**FINDINGS OF FACT:**

Having reviewed the evidence in the record, the administrative law judge finds: Mr. Huaracha Jr began working for the employer, a base period employer, on June 21, 2021. He works as a seasonal, full-time general laborer planting crop seeds and doing general work in the field. His hours are generally 6:45 a.m. to 4:00 p.m. each day during the season. His hourly pay is \$12.00. Mr. Huaracha has other base period wages.

In November 2020, Mr. Huaracha's seasonal work ended, but he remained employed with the employer. Mr. Huaracha was out of work from November through January 2021 when he began working at his second job. In June 2021, Mr. Huaracha returned to work in his same job at his same pay, and he remains employed by the employer.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes as follows:

Iowa Code § 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 96.1A, subsection 37, paragraph "b", unnumbered paragraph (1), or temporarily unemployed as defined in section 96.1A, subsection 37, 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 Code § 96.1A(37) provides:

"Total and partial unemployment".

a. An individual shall be deemed "totally unemployed" in any week with respect to which no wages are payable to the individual and during which the individual performs no services.

b. An individual shall be deemed partially unemployed in any week in which either of the following apply:

(1) While employed at the individual's then regular job, the individual works less than the regular full-time week and in which the individual earns less than the individual's weekly benefit amount plus fifteen dollars.

(2) The individual, having been separated from the individual's regular job, earns at odd jobs less than the individual's weekly benefit amount plus fifteen dollars.

c. An individual shall be deemed temporarily unemployed if for a period, verified by the department, not to exceed four consecutive weeks, the individual is unemployed due to a plant shutdown, vacation, inventory, lack of work or emergency from the individual's regular job or trade in which the individual worked full-time and will again work full-time, if the individual's employment, although temporarily suspended, has not been terminated.

Iowa Admin. Code r. 871-24.23(26) provides:

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

(26) Where a claimant is still employed in a part-time job at the same hours and wages as contemplated in the original contract for hire and is not working on a reduced workweek basis different from the contract for hire, such claimant cannot be considered partially unemployed.

Iowa Code section 96.7(2)a(2)(a) provides:

2. Contribution rates based on benefit experience.

a. (2) The amount of regular benefits plus fifty percent of the amount of extended benefits paid to an eligible individual shall be charged against the account of the employers in the base period in the inverse chronological order in which the employment of the individual occurred.

(a) However, if the individual to whom the benefits are paid is in the employ of a base period employer at the time the individual is receiving the benefits, and the individual is receiving the same employment from the employer that the individual received during the individual's base period, benefits paid to the individual shall not be charged against the account of the employer. This provision applies to both contributory and reimbursable employers, notwithstanding subparagraph (3) and section 96.8, subsection 5.

Mr. Huaracha became unemployed in November 2020 due to a lack of work in his full-time, seasonal job. Mr. Huaracha returned to his seasonal job the next season. Although Mr. Huaracha was out of work from November 2020 through January 2021, Iowa law limits temporary unemployment to four consecutive weeks. As such, Mr. Huaracha is temporarily unemployed from November 15, 2020 through December 12, 2020. Benefits are allowed for these weeks.

Even though Mr. Huaracha is not eligible for regular unemployment insurance benefits under state law as of December 13, 2020, he 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 up to the \$600 weekly benefit amount under the Federal Pandemic Unemployment Compensation (FPUC) program if they are eligible.

**DECISION:**

The November 23, 2021, (reference 01) unemployment insurance decision is modified in favor of the appellant, Mr. Huaracha. Mr. Huaracha is temporarily unemployed from November 15, 2020 through December 12, 2020. Benefits are allowed for these weeks, provided he is otherwise eligible.



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Daniel Zeno  
Administrative Law Judge  
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February 14, 2022  
Decision Dated and Mailed

dz/scn

**NOTE TO MR. HUARACHA:**

- If you were unemployed as of December 13, 2020 for reasons related to COVID-19, you may qualify for Pandemic Unemployment Assistance (PUA) benefits. **You must apply for PUA benefits to determine your eligibility under the program.** To apply for PUA benefits,
  - First go to <https://www.iowaworkforcedevelopment.gov/unemployment-insurance-appeals>.
  - Go to the "WHAT TO EXPECT FROM THE HEARING" section.
  - Go to the last two sentences in that section.
  - The PUA application link is at the end of the second-to-last sentence of the section.
  - The reference number is the pin number you used for the appeal hearing.
- Iowa's governor Iowa's participation in federal pandemic-related unemployment benefit programs, including the PUA program, effective June 12, 2021. **But, you can still apply for PUA benefits at the link above if you were unemployed for reasons related to COVID-19 between February 2, 2020, and June 12, 2021.**