

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

**MICHELLE M GRIESE**  
Claimant

**APPEAL NO: 20A-UI-08158-JE-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**HOPE HAVEN INC**  
Employer

**OC: 04/05/20**  
**Claimant: Appellant (1)**

Section 96.4-3 – Able and Available

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the July 2, 2020, reference 01, decision that found she was not able and available for work and denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on August 24, 2020. The claimant participated in the hearing. Connie Pagel, Human Resources Manager, participated in the hearing on behalf of the employer.

**ISSUE:**

The issue is whether the claimant is able and available for work.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was hired as a full-time direct support professional at Hope Haven on December 1, 2014, and is still employed there. In May 2018 she was assigned to work as a job coach with clients at Pure Fishing in Spirit Lake. Pure Fishing closed due to COVID-19 March 20, 2020 and has yet to reopen. The claimant had to self-quarantine after returning from Las Vegas from March 19 through April 1, 2020, and the employer paid her for that time.

The employer has full-time hours available for first-shift direct support professionals in Spirit Lake and other towns in the area. The employer pays for mileage and travel time. The claimant has not called the employer about other available hours and turned down an offer of hours the employer made to her because she did not want to travel for that amount of hours and had already filed for unemployment.

The claimant's husband and son have asthma and the claimant is concerned about COVID-19. The claimant has not asked for pandemic leave or provided medical verification of her husband or son's condition or that she needs to remain off work due to COVID 19. She testified that most of the employer's homes in Spirit Lake have been affected by COVID-19 but few have been and for those sites the employer takes volunteers and offers "heroes pay." No one is forced to work in a home affected by COVID-19 but rather are assigned to homes that have not been impacted by COVID-19.

**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.

Iowa Code section 96.4(3) provides:

A 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 4 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(20) provides:

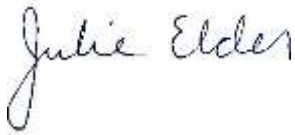
(20 Where availability for work is unduly limited because the claimant is waiting to be recalled to work by a former employer or waiting to go to work for a specific employer and will not consider suitable work with other employers.

While Pure Fishing, the worksite where the claimant has been working, is temporarily closed due to COVID-19, the employer has work available for her as a direct support professional. The claimant has been working as a job coach but is still classified by the employer as a direct support professional and could be working at many of the employer's numerous homes. Instead, she is waiting for Pure Fishing to reopen. The claimant never contacted the employer about other available work. She appears reluctant to accept any other available hours or to travel to any of the several small towns in the area despite the fact the employer pays mileage and travel time. She also stated that most of the employer's homes in Spirit Lake have had COVID 19 but that is not the case and the employer takes volunteers for homes that have been affected and does not force any employee to work in those homes who is uncomfortable doing so. Additionally, the claimant is concerned about COVID-19 because her husband and son have asthma and she does not want to potentially expose them.

Accordingly, for all of the reasons stated above, the claimant is not considered able and available for work and benefits must be denied.

**DECISION:**

The July 2, 2020, reference 01, decision is affirmed. The claimant is not able to work and available for work effective April 5, 2020. Benefits are denied effective the week ending April 11, 2020.



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Julie Elder  
Administrative Law Judge

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August 27, 2020  
Decision Dated and Mailed

je/sam

*Note to Claimant:* This decision determines you are not eligible for regular unemployment insurance benefits. 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. Individuals who do not qualify for regular unemployment insurance benefits, but who are currently unemployed for reasons related to COVID-19 may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility under the program.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>.