

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**KENT CALVERT**

Claimant

**APPEAL 20A-UI-07633-DB-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CONAGRA FOODS PACKAGED FOODS**

Employer

**OC: 04/19/20**

**Claimant: Respondent (2)**

Iowa Code § 96.4(3) – Able to and Availability for Work  
Iowa Code § 96.19(38) – Total, Partial, Temporary Unemployment  
Iowa Admin. Code r. 871-24.23(10) – Leave of Absence  
Iowa Code § 96.3(7) – Overpayment of Benefits  
PL 116-136 Sec 2104(B) – Federal Pandemic Unemployment Compensation

**STATEMENT OF THE CASE:**

On July 2, 2020, the employer filed an appeal from the June 23, 2020 (reference 01) unemployment insurance decision that allowed benefits to the claimant based on a short-term layoff. The parties were properly notified about the hearing. A telephone hearing was held on August 12, 2020. Claimant participated personally. Attorney Jay Smith represented the claimant. Gunther Anderson testified as a witness for the claimant. The employer, Conagra Foods Packaged Foods LLC, was represented by Amanda Lange and participated through witness Sarah Yaley. The administrative law judge took official notice of the claimant's unemployment insurance benefits records.

**ISSUES:**

Is the claimant able to and available for work?  
Is the claimant on an approved leave of absence?  
Is the claimant overpaid benefits?  
Is the claimant eligible for Federal Pandemic Unemployment Compensation?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant has worked for employer since February 1, 1989. He works full-time as a production technician. He is still employed by the employer. His last day physically worked on the job was April 22, 2020. Claimant has medical conditions which place him at a greater risk of complications should he contract the Coronavirus. Due to the claimant's medical conditions, he requested and was granted a leave of absence from work. He is still currently on leave.

Claimant's administrative records establish that he has received regular State of Iowa unemployment insurance benefits of \$7,342.00 from April 19, 2020 through August 8, 2020. Claimant has also received Federal Pandemic Unemployment Compensation of \$8,400.00 from

April 19, 2020 through July 25, 2020. Claimant has not yet filed an application for Federal Pandemic Unemployment Assistance (PUA).

### **REASONING AND CONCLUSIONS OF LAW:**

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", subparagraph (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.

In this case, the claimant notified the employer that he could not work and he was granted a leave of absence. As such, the period of time he is not working is deemed to be a period of voluntary unemployment. Claimant has not established that he is able to and available for work pursuant to Iowa Code § 96.4(3). Therefore, claimant is not eligible for regular, state-funded unemployment insurance benefits. Regular unemployment insurance benefits funded by the State of Iowa are denied effective April 19, 2020. Because benefits are denied, the issue of overpayment of regular State of Iowa unemployment insurance benefits and Federal Pandemic Unemployment Compensation that were issued based on his receipt of regular State of Iowa benefits must be addressed.

Iowa Code § 96.3(7)a provides:

7. Recovery of overpayment of benefits.

a. If an individual receives benefits for which the individual is subsequently determined to be ineligible, even though the individual acts in good faith and is not otherwise at fault, the benefits shall be recovered. The department in its discretion may recover the overpayment of benefits either by having a sum equal to the overpayment deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment.

As such, any overpayment of regular State of Iowa benefits must be repaid if the claimant is determined ineligible for benefits. The administrative law judge concludes that the claimant has been overpaid regular unemployment insurance benefits funded by the State of Iowa of

\$7,342.00 for the weeks between April 19, 2020 and August 8, 2020 pursuant to Iowa Code § 96.3(7) as the disqualification decision that created the overpayment decision is affirmed. Those benefits must be repaid to the agency.

The next issue is whether the claimant has also been overpaid Federal Pandemic Unemployment Compensation ("FPUC") benefits. The administrative law judges finds that he has been overpaid FPUC benefits. Those benefits must be repaid to the agency.

PL116-136, Sec. 2104 provides, in pertinent part:

(b) Provisions of Agreement

(1) Federal pandemic unemployment compensation.--Any agreement under this section shall provide that the State agency of the State will make payments of regular compensation to individuals in amounts and to the extent that they would be determined if the State law of the State were applied, with respect to any week for which the individual is (disregarding this section) otherwise entitled under the State law to receive regular compensation, as if such State law had been modified in a manner such that the amount of regular compensation (including dependents' allowances) payable for any week shall be equal to

(A) the amount determined under the State law (before the application of this paragraph), plus

(B) an additional amount of \$600 (in this section referred to as "Federal Pandemic Unemployment Compensation").

....

(f) Fraud and Overpayments

(2) Repayment. -- In the case of individuals who have received amounts of Federal Pandemic Unemployment Compensation to which they were not entitled, the State shall require such individuals to repay the amounts of such Federal Pandemic Unemployment Compensation to the State agency...

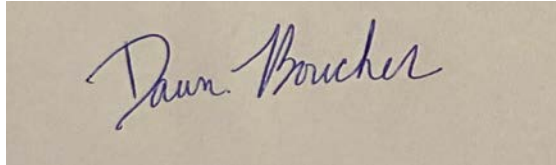
Here, the claimant is disqualified from receiving regular State of Iowa unemployment insurance benefits. Accordingly, this also disqualifies him from receiving FPUC benefits based upon his previously paid out regular State of Iowa unemployment insurance benefits. In addition to the regular State of Iowa unemployment insurance benefits claimant received, he also received \$8,400.00 in FPUC benefits for the weeks between April 19, 2020 through July 25, 2020. Claimant is required to repay those benefits as well.

**DECISION:**

The June 23, 2020 (reference 01) unemployment insurance decision is reversed. The claimant is on a voluntary leave of absence and is not able to work and available for work effective April 19, 2020. Unemployment insurance benefits funded by the State of Iowa are denied until such time as the claimant is able to and available for work.

The claimant is overpaid regular State of Iowa unemployment insurance benefits of \$7,342.00 for the weeks between April 19, 2020 and August 8, 2020 and he must repay the agency those benefits.

The claimant is also overpaid \$8,400.00 in Federal Pandemic Unemployment Compensation benefits for the weeks between April 19, 2020 through July 25, 2020. Claimant is required to repay those benefits as well.



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Dawn Boucher  
Administrative Law Judge

August 18, 2020  
Decision Dated and Mailed

db/scn

**Note to Claimant**

- This decision determines you are not eligible for regular unemployment insurance benefits funded by the State of Iowa 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 funded by the State of Iowa under state law, you may qualify for benefits under the Federal Pandemic Unemployment Assistance ("PUA") section of the Coronavirus Aid, Relief, and Economic Security Act ("Cares Act") that discusses eligibility for claimants who are unemployed due to the Coronavirus.
- **You will need to apply for PUA to determine your eligibility under the program.**  
For additional information on how to apply for PUA go to:  
<https://www.iowaworkforcedevelopment.gov/pua-information>.
- If you are denied regular unemployment insurance benefits funded by the State of Iowa and wish to apply for PUA, please visit:  
<https://www.iowaworkforcedevelopment.gov/pua-information> and scroll down to "Submit Proof Here." You will fill out the questionnaire regarding the reason you are not working and upload a picture or copy of your fact-finding decision. Your claim will be reviewed for PUA eligibility. If you are eligible for PUA, you will also be eligible for Federal Pandemic Unemployment Compensation (FPUC) until the program expires. Back payments PUA benefits may automatically be used to repay any overpayment of state benefits. If this does not occur on your claim, you may repay any overpayment by visiting:  
<https://www.iowaworkforcedevelopment.gov/unemployment-insurance-overpayment-and-recovery>.
- If you have applied and have been approved for PUA benefits, this decision will **not** negatively affect your entitlement to PUA benefits.