

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JESSICA DAUGHERTY
Claimant

JEFFERSON COUNTY HOSPITAL
Employer

APPEAL 20A-UI-13294-CL-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 07/05/20
Claimant: Appellant (4R)

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

STATEMENT OF THE CASE:

On October 26, 2020, the claimant filed an appeal from the October 20, 2020, (reference 01) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on December 18, 2020. Claimant participated personally and was represented by attorney Marlon Mormann. Employer participated through human resource manager Sarah Beasley and revenue cycle manager Joann Timm. Claimant's Exhibits A and B were admitted into the record.

ISSUES:

Is the claimant able to and available for work?
Is the claimant on a voluntary leave of absence?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began working for employer on February 17, 2020. Claimant works for employer as a full-time billing clerk.

In March 2020, the United States declared a public health emergency because of the COVID 19 pandemic.

On April 10, 2020, claimant was laid off from work due to lack of work because of the pandemic. On June 17, 2020, claimant delivered a baby. Claimant's doctor released her to return to work effective July 29, 2020. Effective August 17, 2020, employer recalled claimant to work. Claimant returned to work and was later separated from employment.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant is able to and available for work effective July 26, 2020.

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".

Here, claimant was laid off due to lack of work effective April 10, 2020.

Claimant was not able to and available for work from June 17, 2020, until July 29, 2020, due to child birth and recovery, so she is not eligible for benefits during that time period. Although claimant asserts she was able to work two weeks after giving birth, her doctor's note does not release her until the standard six weeks after giving birth, which is July 29, 2020.

Claimant was able to work and eligible for benefits from July 29, 2020, until August 17, 2020, when she was recalled to work. The layoff was due to lack of work due to COVID, so the issue of whether employer will be relieved of charges for benefits will be remanded to the Tax Bureau.

DECISION:

The October 20, 2020, (reference 01) unemployment insurance decision is modified in favor of claimant. The claimant is not available for work from July 5, 2020, through July 29, 2020, and regular, state-funded unemployment insurance benefits are denied during that time period. Claimant is available for work from July 26, 2020, through August 22, 2020. Benefits are allowed during that time period, provided claimant is otherwise eligible.

REMAND:

The issue of whether employer should be relieved of charges for benefits issued between July 26, 2020, and August 22, 2020, is remanded to the Tax Bureau of Iowa Workforce Development as the claimant was laid off due to the pandemic.



Christine A. Louis
Administrative Law Judge
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515)478-3528

December 31, 2020
Decision Dated and Mailed

cal/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.**