

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**SANDY EMBERLIN**  
Claimant

**SAI INC**  
Employer

**APPEAL 21A-UI-01185-JC-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

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

Iowa Code § 96.4(3) – Ability to and Availability for Work

**STATEMENT OF THE CASE:**

The claimant/appellant, Sandy Emberlin, filed an appeal from the December 8, 2020 (reference 03) Iowa Workforce Development (“IWD”) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on February 16, 2021. The claimant participated. The employer, SAI Inc., was unavailable when called. The administrative law judge received a “busy” error message when repeatedly calling the employer witness.

The administrative law judge took official notice of the administrative records. Claimant Exhibit A was admitted. Based on the evidence, the arguments presented, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUES:**

Is the claimant able to work and available for work effective August 2, 2020?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed full-time for this employer but separated prior to establishing her claim for unemployment insurance benefits. The claimant’s separation from this employment, as well as her separations with subsequent employment with Des Moines Council of St. Vincent De Paul and Express Services Inc. have not been addressed by the Benefits Bureau.

Claimant most recently worked as an assistant for this employer, a UPS store franchise. She also is looking for administrative work. However, since August 2, 2020, claimant’s doctor provided a restriction that she be exempt from wearing a face mask. See Claimant Exhibit A. Claimant did not establish at the hearing that she has been seeking employment that is within her restrictions (of not having to wear a face mask).

Claimant was hospitalized with COVID-19 and complications from February 5- February 8, 2021 and is under medical care to self-quarantine through February 17, 2021.

## REASONING AND CONCLUSIONS OF LAW:

For an unemployed individual to be eligible to receive benefits, she must be able to work, available for work, and actively seeking work as required by the unemployment insurance law. Iowa Code § 96.4(3). The burden is on the claimant to establish that she is able and available for work within the meaning of the statute. Iowa Code § 96.6(2); Iowa Admin. Code r. 871-24.22.

Iowa Admin. Code r. 871-24.23 provides in pertinent parts:

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

(1) An individual who is ill and presently not able to perform work due to illness.

...

(3) If an individual places restrictions on employability as to the wages and type of work that is acceptable and when considering the length of unemployment, such individual has no reasonable expectancy of securing work, such individual will be deemed not to have met the availability requirements of Iowa Code section 96.4(3).

Since August 2, 2020, claimant has had a medical restriction exempting the wearing of a face mask. Claimant did not demonstrate at the hearing that she has been searching for employment within this restriction, or that would allow her to work and comply with the restriction. She therefore has not met her burden of proof to establish she is able to and available for work. Additionally, claimant has been unable to work since February 5, 2020 due to testing positive for COVID-19, being hospitalized and having to self-quarantine. Benefits are denied.

Even though the claimant is not eligible for regular unemployment insurance benefits under state law, he/she 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). The claimant must apply for PUA, as noted in the instructions provided in the "Note to Claimant" below.

**DECISION:**

The unemployment insurance decision dated December 8, 2020, (reference 03) is affirmed. The claimant is not able and available for work effective August 2, 2020. Regular unemployment insurance benefits funded by the state of Iowa are denied until such time the claimant is able to and available for work.

**REMAND:**

The following issues are remanded to the Benefits Bureau for an initial investigation:

1. Claimant's permanent separation from Sai Inc.
2. Claimant's separation from Express Services Inc.
3. Claimant's separation from Des Moines Council of St. Vincent De Paul

**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.
- If you do not qualify for regular unemployment insurance benefits due to disqualifying separations 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.** More information about how to apply for PUA is available online at:  
[www.iowaworkforcedevelopment.gov/pua-information](http://www.iowaworkforcedevelopment.gov/pua-information)



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February 25, 2021  
Decision Dated and Mailed

jlb/kmj