

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**ASHLEY A BARR**  
Claimant

**MIDWEST JANITORIAL SERVICE INC**  
Employer

**APPEAL 20A-UI-12046-DB-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

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

Iowa Code § 96.4(3) – Able to and Available for Work

**STATEMENT OF THE CASE:**

The claimant/appellant filed an appeal from the September 18, 2020 (reference 03) unemployment insurance decision that found claimant was not eligible for unemployment benefits effective April 5, 2020 because she was not able to and available for work. The parties were properly notified of the hearing. A telephone hearing was held on November 23, 2020. The claimant, Ashley A. Barr, participated personally. The employer, Midwest Janitorial Service Inc., participated through witness Erin Decker. The administrative law judge took administrative notice of the claimant's unemployment insurance benefits records.

**ISSUE:**

Was the claimant able to and available for work?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed for the employer beginning on September 4, 2019. She worked as a janitor. In February of 2020, she was off of work due to a personal medical issue. She was scheduled to return to work; however, the COVID 19 pandemic occurred and she did not have childcare available when the schools closed. Claimant was off of work due to lack of childcare until she became available again on October 8, 2020. Claimant started working again for the employer beginning on October 12, 2020.

Claimant's administrative records establish that she has received regular unemployment insurance benefits funded by the State of Iowa and Federal Pandemic Emergency Unemployment Compensation (PEUC) benefits.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant was not able to and available for work effective her original claim date of April 5, 2020 through the benefit week ending October 10, 2020. Regular unemployment insurance benefits funded by the State of Iowa are denied.

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 § 96.19, subsection 38, paragraph "b", subparagraph 1, or temporarily unemployed as defined in § 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 § 96.5, subsection 3 are waived if the individual is not disqualified for benefits under § 96.5, subsection 1, paragraph "h".

Iowa Admin. Code r. 871-24.22(2) provides:

Benefits eligibility conditions. For an individual to be eligible to receive benefits the department must find that the individual is able to work, available for work, and earnestly and actively seeking work. The individual bears the burden of establishing that the individual is able to work, available for work, and earnestly and actively seeking work.

(2) Available for work. The availability requirement is satisfied when an individual is willing, able, and ready to accept suitable work which the individual does not have good cause to refuse, that is, the individual is genuinely attached to the labor market. Since, under unemployment insurance laws, it is the availability of an individual that is required to be tested, the labor market must be described in terms of the individual. A labor market for an individual means a market for the type of service which the individual offers in the geographical area in which the individual offers the service. Market in that sense does not mean that job vacancies must exist; the purpose of unemployment insurance is to compensate for lack of job vacancies. It means only that the type of services which an individual is offering is generally performed in the geographical area in which the individual is offering the services.

Iowa Admin. Code r. 871—24.23 Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(8) Where availability for work is unduly limited because of not having made adequate arrangements for child care.

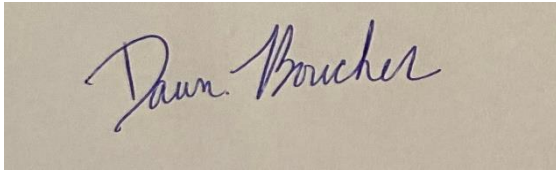
The burden is on the claimant to establish that she is able to work and available for work within the meaning of the statute. Iowa Code § 96.6(2); Iowa Admin. Code r. 871-24.22. Claimant credibly testified that she was not able to and available for work due to lack of childcare. As such, regular unemployment insurance benefits funded by the State of Iowa are denied effective April 5, 2020.

**DECISION:**

The September 18, 2020 (reference 03) unemployment insurance decision is affirmed. The claimant was not able to and available for work pursuant to Iowa law effective April 5, 2020.

**REMAND:**

The issue of whether the claimant has been overpaid regular unemployment insurance benefits funded by the State of Iowa and Federal PEUC benefits is remanded to the Benefits Bureau for an initial investigation and determination.



---

Dawn Boucher  
Administrative Law Judge

December 4, 2020  
Decision Dated and Mailed

db/mh

**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.