

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**KELLY R REBOLLEDO-VIVEROS**  
Claimant

**DOLLY'S TAXI LLC**  
Employer

**APPEAL 20A-UI-05027-DB-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 03/22/20**  
**Claimant: Appellant (1)**

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Iowa Code § 96.4(3) – Able to and Availability for Work  
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 May 27, 2020, the claimant filed an appeal from the May 22, 2020 (reference 01) unemployment insurance decision that denied regular State of Iowa unemployment insurance benefits to the claimant based on a leave of absence. The parties were properly notified about the hearing. A telephone hearing was held on June 29, 2020. Claimant participated personally. The employer, Dolly's Taxi LLC, did not participate. 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 March 6, 2017. She works full-time as a driver. On or about March 22, 2020, claimant explained to her supervisor that she no longer had daycare for her minor child due to the COVID 19 pandemic. Claimant also explained that she had underlying health conditions and would be susceptible to greater complications if she contracted the Coronavirus. Her supervisor agreed that she could take a leave of absence. She has been unemployed since that time due to the leave of absence.

Claimant's administrative records establish that she has filed for and has been paid a total of \$3,548.00 in unemployment insurance benefits for the weeks between March 22, 2020 and May 16, 2020. Claimant's administrative records establish that she has received Federal Pandemic Unemployment Compensation benefits of \$4,200.00 from March 29, 2020 through May 16, 2020.

## 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 requested and was granted a leave of absence. As such, the period of time she is not working is deemed to be a period of voluntary unemployment for the purposes of regular State of Iowa unemployment insurance benefits. Claimant has not established that she is able to and available for work. Therefore, claimant is not eligible for regular, state-funded unemployment insurance benefits.

As the claimant has received benefits but is not eligible for those benefits, the next issue in this case is whether the claimant has been overpaid unemployment insurance benefits.

Iowa Code § 96.3(7) provides, in pertinent part:

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.

The administrative law judge concludes that the claimant has been overpaid unemployment insurance benefits of \$3,548.00 for the weeks between March 22, 2020 and May 16, 2020 pursuant to Iowa Code § 96.3(7), as the disqualification decision that created the overpayment decision is affirmed. Claimant must repay those benefits to the agency.

The next issue is whether the claimant was eligible for Federal Pandemic Unemployment Compensation (“FPUC”) benefits and whether she was overpaid those benefits. The administrative law judge finds that she was not eligible for those benefits and is overpaid FPUC benefits.

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...

Because claimant is disqualified from receiving regular unemployment insurance benefits, she is also disqualified from receiving FPUC. The administrative law judge concludes that claimant has been overpaid FPUC in the gross amount of \$4,200.00 from March 29, 2020 through May 16, 2020. Claimant must repay the FPUC benefits she received.

**While the claimant may not be eligible for regular State of Iowa unemployment insurance benefits, she may be eligible for unemployment insurance benefits that have been made available to claimants under the Coronavirus Aid, Relief, and Economic Security Act (“Cares Act”). The Pandemic Unemployment Assistance (“PUA”) section of the Cares Act discusses eligibility for claimants who are unemployed due to the Coronavirus. For claimants who are ineligible for regular unemployment insurance benefits under Iowa Code Chapter 96, they may be eligible under PUA.**

**Note to Claimant: If this decision determines you are not eligible for regular unemployment insurance benefits and 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**

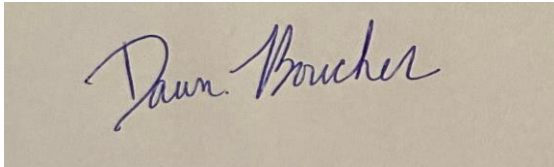
**determine your eligibility under the program. Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>.**

**DECISION:**

The May 22, 2020 (reference 01) unemployment insurance decision is affirmed. The claimant is on a voluntary leave of absence and is not able to work and available for work effective March 22, 2020. Unemployment insurance benefits funded by the State of Iowa are denied until such time claimant is able to and available for work.

The claimant has been overpaid unemployment insurance benefits of \$3,5480.00 between March 22, 2020 and May 16, 2020 and is obligated to repay the agency those benefits she received.

The claimant has been overpaid FPUC benefits of \$4,200.00 from March 29, 2020 through May 16, 2020 due to her ineligibility for State of Iowa unemployment insurance benefits and she is required to repay the agency those benefits she received as well.

A rectangular box containing a handwritten signature in blue ink that reads "Dawn Boucher".

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Dawn Boucher  
Administrative Law Judge

July 9, 2020  
Decision Dated and Mailed

db/sam