

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

KELLI MARTIN

Claimant

HEARTLAND EMPLOYMENT SERVICES

Employer

APPEAL 20A-UI-08463-AD-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 04/05/20

Claimant: Appellant (2)

Iowa Code § 96.19(38) – Total, partial unemployment
Iowa Code § 96.4(3) – Eligibility – A&A – Able to, available for, work search
Iowa Admin. Code r. 871-24.23(26) – Eligibility – A&A – Part-time same hours, wages
Iowa Code § 96.7(2)a(2) – Charges – Same base period employment

STATEMENT OF THE CASE:

On July 14, 2020, Kelli Martin (claimant/appellant) filed a timely appeal from the Iowa Workforce Development decision dated July 7, 2020 (reference 01) that denied benefits as of April 5, 2020, based on a finding claimant requested and was granted a leave of absence.

A telephone hearing was held on August 28, 2020. The parties were properly notified of the hearing. Claimant participated personally. Heartland Employment Services LLC (employer/respondent) participated by HR Representative Kathleen Clarahan.

Official notice was taken of the administrative record.

ISSUE(S):

- I. Is the claimant totally, partially, or temporarily unemployed?
- II. Is the claimant able to and available for work?
- III. Is the claimant on an approved 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 December 2, 2013. Claimant is still employed by employer.

Employer held claimant out of work from April 7-13, 2020, due to claimant having a high fever and pending a COVID-19 test. Claimant was paid as usual during this time, although not until she had already filed for benefits and reported wages earned that week. Claimant returned to her regular work on April 14. Claimant typically worked 35-40 hours per week at a rate of \$20.42 per hour.

Beginning approximately June 1, 2020, claimant's hours were reduced to approximately 30 hours per week. This reduction continues to present. The reduction is due to a lack of work.

Claimant's weekly benefit amount is \$481.00. Claimant has reported wages each week as follows:

Benefit week ending date	Amount reported
04/11/20	160.00
06/06/20	394.00
06/13/20	350.00
06/20/20	368.00
06/27/20	388.00
07/04/20	593.00
07/11/20	428.00
07/18/20	655.00
07/25/20	612.00
08/01/20	612.00
08/08/20	653.00

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the Iowa Workforce Development decision dated July 7, 2020 (reference 01) that denied benefits as of April 5, 2020, based on a finding claimant requested and was granted a leave of absence is REVERSED. Claimant did not request and was not granted a leave of absence. Claimant was able to and available for work during the period in question. Claimant was partially unemployed and eligible for benefits for the benefit weeks ending June 6, 2020 through the benefit week ending July 11, 2020, excluding the benefit week ending July 4, 2020.

Iowa Code section 96.19(38) provides:

"Total and partial unemployment".

a. An individual shall be deemed *"totally unemployed"* in any week with respect to which no wages are payable to the individual and during which the individual performs no services.

b. An individual shall be deemed partially unemployed in any week in which either of the following apply:

(1) While employed at the individual's then regular job, the individual works less than the regular full-time week and in which the individual earns less than the individual's weekly benefit amount plus fifteen dollars.

(2) The individual, having been separated from the individual's regular job, earns at odd jobs less than the individual's weekly benefit amount plus fifteen dollars.

c. An individual shall be deemed temporarily unemployed if for a period, verified by the department, not to exceed four consecutive weeks, the individual is unemployed due to a plant shutdown, vacation, inventory, lack of work or emergency from the individual's regular job or trade in which the individual worked full-time and will again work full-time, if the individual's employment, although temporarily suspended, has not been terminated.

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".

Claimant did not request and was not granted a leave of absence. Claimant was able to and available for work during the period in question. Any departure from claimant's normal schedule was due to employer holding her out of work and/or reducing her hours.

Claimant was partially unemployed and eligible for benefits for the benefit weeks ending June 6, 2020 through the benefit week ending July 11, 2020, excluding the benefit week ending July 4, 2020. This is because during those weeks claimant was employed in her regular job but working less than the regular full-time week and earning less than her weekly benefit amount plus fifteen dollars. In the other weeks for which claimant filed a weekly claim for benefits she is not considered unemployed, as she earned more than her weekly benefit amount plus fifteen dollars.

DECISION:

The Iowa Workforce Development decision dated July 7, 2020 (reference 01) that denied benefits as of April 5, 2020, based on a finding claimant requested and was granted a leave of absence is REVERSED. Claimant did not request and was not granted a leave of absence. Claimant was able to and available for work during the period in question. Claimant was partially unemployed and eligible for benefits for the benefit weeks ending June 6, 2020 through the benefit week ending July 11, 2020, excluding the benefit week ending July 4, 2020.



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

August 31, 2020
Decision Dated and Mailed

abd/scn

Note to Claimant:

If you disagree with this decision, you may file an appeal with the Employment Appeal Board by following the instructions on the first page of this decision. If this decision denies benefits, you may be responsible for paying back benefits already received.

Individuals who are disqualified from or are otherwise ineligible 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.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>.