

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

ANNETTE GARRETT

Claimant

NEW CHOICES INCORPORATED

Employer

APPEAL NO. 20A-UI-04710-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/29/20

Claimant: Appellant (6)

Iowa Code Section 96.4(3) – Able & Available

Iowa Administrative Code rule 871-26.8(1) - Withdrawal of Appeal

STATEMENT OF THE CASE:

Annette Garrett filed a timely appeal from the May 22, 2020, reference 01, decision that denied benefits effective March 29, 2020, based on the deputy's conclusion that Ms. Garrett was unable to perform work according to her physician and, therefore, did not meet the availability requirement. A hearing was scheduled for June 15, 2020. Prior to the hearing being held, the claimant/ appellant requested the appeal be withdrawn.

FINDINGS OF FACT:

Annette Garrett is the appellant in this matter. The appeal hearing was set for June 15, 2020. The issues set for appeal were whether Ms. Garrett has been able to work and available for work, and whether she has been on an approved leave of absence, since she filed the original claim for benefits that was effective March 29, 2020. On June 12, 2020, Ms. Garrett's legal counsel filed a request to withdraw the appeal, in which request counsel stated the following on behalf of Ms. Garrett: "The reason for this withdrawal is that I have been assured that IWD is working on getting my PUA benefits as soon as possible." Because some type of able and available analysis, with or without COVID-19/CARES Act exemptions, applies to claims for regular state benefits *and* Pandemic Unemployment Assistance (PUA), and because the administrative law judge was unaware who from Iowa Workforce Development had assured the claimant she could withdraw the appeal without potential detrimental effect on her eligibility for benefits, the administrative law judge attempted to reach the claimant at the time of the appeal hearing to ensure the request to withdraw the appeal was knowingly made. The administrative law judge attempted to reach Ms. Garrett at the number she had registered for the appeal hearing, which number was the number for Wolfe Law Office in Clinton. The administrative law judge spoke with attorney Mary Wolfe. Ms. Wolfe advised that the request to withdraw the appeal was based on discussion with IWD Interim Legal Counsel Stephanie Callahan. With that information, the administrative law judge granted the withdrawal request. The administrative law judge further advised Ms. Wolfe that in the event there is a need to request reopening of the appeal proceeding, the administrative law just would grant said request if it was filed within 15 days of the mailing date of the present decision approving withdrawal of the appeal.

The request to withdraw the appeal was filed before presentation of evidence and before the administrative law judge made a decision in connection with the appeal.

REASONING AND CONCLUSIONS OF LAW:

Iowa Admin. Code r. 871-26.8(1) provides:

- (1) An appeal may be withdrawn at any time prior to the issuance of a decision upon the request of the appellant and with the approval of an administrative law judge or the manager or chief administrative law judge of the appeals bureau. Requests for withdrawal may be made in writing or orally, provided the oral request is tape-recorded by the presiding officer.

An appeal may be dismissed upon the request of a party or in the agency's discretion when the issue or issues on appeal have been resolved in the appellant's favor.

The administrative law judge concludes that the claimant's request to withdraw the appeal should be approved.

DECISION:

The claimant's request to withdraw the appeal is approved. The May 22, 2020, reference 01, decision that denied benefits effective March 29, 2020, based on the deputy's conclusion that the claimant was unable to perform work according to her physician and, therefore, did not meet the availability requirements, remains in effect. Based on withdrawal of the appeal, the hearing set for June 15, 2020 is cancelled.

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. 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>.



James E. Timberland
Administrative Law Judge

June 26, 2020
Dated and Mailed

jet/scn

