

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

---

**BILLIE J PAYNE**  
Claimant

**BULL MOOSE HEAVY HAUL INC**  
Employer

**APPEAL 20A-UI-09780-CL-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 04/12/20**  
**Claimant: Appellant (4)**

---

Iowa Code § 96.4(3) – Ability to and Availability for Work  
Iowa Admin. Code r. 871-24.23(10) – Able & Available – Availability Disqualifications

**STATEMENT OF THE CASE:**

On August 18, 2020, the claimant filed an appeal from the August 12, 2020, (reference 01) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on September 30, 2020. Claimant participated. Employer did not register for the hearing and did not participate. Claimant's Exhibit A was received.

**ISSUES:**

Is the claimant able to and available for work?  
Is the claimant on a voluntary 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 October 30, 2017. Claimant worked for employer as a full-time painter.

In March 2020, the United States declared a public health emergency because of the COVID 19 pandemic.

At the beginning of April 2020, claimant took two paid weeks off of work. Due to being pregnant and having asthma, claimant was trying to avoid contracting COVID 19. Claimant remained off work unpaid for the next three weeks, which are the three weeks ending May 2, 2020. Employer told claimant she could contact them when she was ready to return. On April 30, 2020, claimant was going to contact her supervisor to state she was ready to return to work on May 4, 2020. Before she could do so, she was notified she was being laid off effective April 30, 2020. Employer has not recalled claimant to work.

Claimant has been able to and available for work since May 4, 2020, all dates except from July 12, 2020, until August 8, 2020, when she was recovering from childbirth. Iowa Workforce

Development has issued a decision denying benefits during this time period, and claimant is not appealing or contesting that decision.

### **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes that the claimant is able to work and available for work effective May 4, 2020, going forward with the exception of the time period between July 12, 2020, through August 8, 2020.

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".

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.

Here, claimant was on a leave of absence for the three weeks ending May 2, 2020, and is not available for regular unemployment insurance benefits during that time period. Even though claimant is not eligible for regular unemployment insurance benefits under state law during that time period, the claimant 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) that in general provides up to 39 weeks of unemployment benefits. An individual receiving PUA benefits may also receive the \$600 weekly benefit amount (WBA) under the Federal Pandemic Unemployment Compensation (FPUC) program if he or she is eligible for such compensation for the week claimed.

Claimant made herself available for work effective May 4, 2020, but work was not available for her, as she was laid off effective April 30, 2020. Therefore, she is eligible for regular unemployment insurance benefits from May 4, 2020, going forward, except for the period of time from July 12, 2020, from August 8, 2020, when she was recovering from childbirth. Iowa Workforce Development has issued a decision denying benefits during that time period and claimant has not appealed that decision.

**DECISION:**

The August 12, 2020, (reference 01) unemployment insurance decision is modified in favor of claimant. The claimant is not available for work for the three weeks ending May 2, 2020, and regular, state-funded unemployment insurance benefits are denied during that time period. Claimant may be eligible for Pandemic Unemployment Assistance, if she applies, as instructed below. Claimant is eligible for regular unemployment insurance benefits effective May 4, 2020, with the exception of the time frame from July 12, 2020, through August 8, 2020, when she was recovering from child birth.



---

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

October 1, 2020  
Decision Dated and Mailed

cal/sam

**NOTE TO CLAIMANT:**

- This decision determines you are not eligible for regular unemployment insurance benefits 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 under state law 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.** For more information on how to apply for PUA, go to <https://www.iowaworkforcedevelopment.gov/pua-information>. **If you do not apply for and are not approved for PUA, you may be required to repay the benefits you've received so far.**