

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**AMY SCHELLING**

Claimant

**SPORTS PLUS MEDICINE & PHYSICAL  
THERAPY**

Employer

**APPEAL 20A-UI-12783-S2-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 03/15/20**

**Claimant: Appellant (1/R)**

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Iowa Code § 96.4(3) – Ability to and Availability for Work

Iowa Code § 96.5(3)a – Failure to Accept Work

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the October 6, 2020, (reference 01) unemployment insurance decision that denied benefits. The parties were properly notified of the hearing. A telephone hearing was held on December 7, 2020. The claimant participated. The employer participated through President Scott Carnahan. Official notice was taken of the administrative record. Employer Exhibits 1 and 2 were admitted.

**ISSUES:**

Was a suitable offer of work made to the claimant on April 20, 2020?

If so, did the claimant fail to accept and was the failure to do so for a good cause reason?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full time as a patient care coordinator from June 1, 2015, until this employment ended on April 20, 2020, when she was quit her employment. Owner Scott Carnahan was claimant's supervisor.

In March 2020, the United States declared a public health emergency based on the COVID-19 pandemic. On March 18, 2020, Carnahan laid off the majority of his employees, including claimant, due to a lack of work. In April 2020, employer received a loan which allowed it to recall its employees. On April 17, 2020, Carnahan called claimant and offered her to return to work. Carnahan told claimant she could start April 20, 2020, and would have the same position and pay as she did when she left employment. Carnahan explained to claimant that while there might not be 40 hours of week available for her, she would still be paid for 40 hours' worth of work. Claimant indicated she would accept the offer to return to work. On April 20, 2020, claimant called Carnahan and explained she was concerned about rising COVID-19 cases in the county due to her husband and daughter who are at high risk for contracting COVID-19. Claimant worried about safety precautions being taken by employer to protect against the virus and informed Carnahan she would not return to work.

The claimant filed her claim for benefits effective March 15, 2020. The base period includes the fourth quarter of 2018 and the first three quarters of 2019. The claimant had an average weekly wage of \$590.42 during the highest quarter of the base period.

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

For the reasons that follow, the administrative law judge concludes the claimant failed to accept a suitable offer of work. Benefits are denied effective April 20, 2020.

Iowa Code § 96.5(3)a provides:

An individual shall be disqualified for benefits:

3. Failure to accept work. If the department finds that an individual has failed, without good cause, either to apply for available, suitable work when directed by the department or to accept suitable work when offered that individual. The department shall, if possible, furnish the individual with the names of employers which are seeking employees. The individual shall apply to and obtain the signatures of the employers designated by the department on forms provided by the department. However, the employers may refuse to sign the forms. The individual's failure to obtain the signatures of designated employers, which have not refused to sign the forms, shall disqualify the individual for benefits until requalified. To requalify for benefits after disqualification under this subsection, the individual shall work in and be paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

a. (1) In determining whether or not any work is suitable for an individual, the department shall consider the degree of risk involved to the individual's health, safety, and morals, the individual's physical fitness, prior training, length of unemployment, and prospects for securing local work in the individual's customary occupation, the distance of the available work from the individual's residence, and any other factor which the department finds bears a reasonable relation to the purposes of this paragraph. Work is suitable if the work meets all the other criteria of this paragraph and if the gross weekly wages for the work equal or exceed the following percentages of the individual's average weekly wage for insured work paid to the individual during that quarter of the individual's base period in which the individual's wages were highest:

(a) One hundred percent, if the work is offered during the first five weeks of unemployment.

(b) Seventy-five percent, if the work is offered during the sixth through the twelfth week of unemployment.

(c) Seventy percent, if the work is offered during the thirteenth through the eighteenth week of unemployment.

(d) Sixty-five percent, if the work is offered after the eighteenth week of unemployment.

(2) However, the provisions of this paragraph shall not require an individual to accept employment below the federal minimum wage.

Iowa Admin. Code r. 871-24.24(1)a provides:

(1) Bona fide offer of work.

a. In deciding whether or not a claimant failed to accept suitable work, or failed to apply for suitable work, it must first be established that a bona fide offer of work was made to the individual by personal contact or that a referral was offered to the claimant by personal contact to an actual job opening and a definite refusal was made by the individual. For purposes of a recall to work, a registered letter shall be deemed to be sufficient as a personal contact.

Iowa Admin. Code r. 871-24.24(14)(a) provides:

Failure to accept work and failure to apply for suitable work. Failure to accept work and failure to apply for suitable work shall be removed when the individual shall have worked in (except in back pay awards) and been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

(14) Employment offer from former employer.

a. The claimant shall be disqualified for a refusal of work with a former employer if the work offered is reasonably suitable and comparable and is within the purview of the usual occupation of the claimant. The provisions of Iowa Code section 96.5(3)"b" are controlling in the determination of suitability of work.

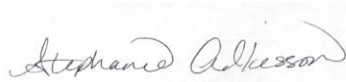
The employer has the burden to establish that it made a suitable offer of employment. The employer personally reached out to the claimant, during her claim year, and offered her the same job she had done a month before. The employer offered claimant the same position, hours, and wages as she had previously been working. The employer has established that it made a suitable offer of employment. The claimant has not established that she had a good cause reason for declining the offer of work. Accordingly, benefits are denied effective April 20, 2020.

**DECISION:**

The October 5, 2020, (reference 01) unemployment insurance decision is affirmed. Claimant failed to accept a suitable offer of work. Benefits are withheld effective April 20, 2020 until such time as the claimant works in and has been paid wages equal to ten times her weekly benefit amount, provided she is otherwise eligible.

**REMAND:**

The issue of whether the claimant was overpaid benefits is remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and determination.



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

December 22, 2020  
Decision Dated and Mailed

sa/mh

**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.**