

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

DEBBIE M AVEY
Claimant

CDS GLOBAL INC
Employer

APPEAL 20A-UI-03380-AD-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 05/05/19
Claimant: Appellant (4)**

Iowa Code § 96.4(3) - Able and Available

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the April 21, 2020, (reference 01) unemployment insurance decision that determined claimant was disqualified from receiving benefits because she refused recall to suitable work.

After due notice was issued, a telephone conference hearing was set for May 14, 2020. Claimant participated personally. Employer participated by Workforce Manager Doris Keldgord. Official notice was taken of the administrative record.

ISSUES:

Is the claimant able to work and available for work?

FINDINGS OF FACT:

Claimant began working for employer on April 27, 1998. Claimant is still employed there.

The last day claimant performed work for employer was March 10, 2020. Claimant requested and has been on an approved leave of absence since that time. Claimant is taking a leave of absence to care for her special-needs child, who has a weakened immune system, during the pandemic. There are no other child care options for claimant, as schools are closed due to the pandemic and other caregivers are either unavailable or unsuitable due to the pandemic. Work has been available during the leave of absence.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the April 21, 2020 (reference 01) unemployment insurance decision that denied benefits is MODIFIED in favor of appellant. The administrative law judge finds claimant is not disqualified due to refusing an offer to return to work. Claimant is instead ineligible for benefits effective March 10, 2020 due to being on an approved leave of absence. The period of ineligibility will continue for the duration of the leave of absence.

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.

The last day claimant performed work for employer was March 10, 2020. Claimant requested and has been on an approved leave of absence since that time. Claimant is taking a leave of absence to care for her special-needs child, who has a weakened immune system, during the pandemic. Because claimant requested and was granted a leave of absence, she is not eligible for benefits for the duration of that leave of absence.

While the claimant is not eligible for regular unemployment benefits due to her unavailability for work at this time, the administrative law judge wishes to emphasize that claimant is likely eligible for Pandemic Unemployment Assistance (PUA) benefits, as the reason for the leave of absence is to care for her child. There is information below on PUA and how to apply for it.

DECISION:

The April 21, 2020 (reference 01) unemployment insurance decision that denied benefits is MODIFIED in favor of appellant. The administrative law judge finds claimant is not disqualified due to refusing an offer to return to work. Claimant is instead ineligible for benefits effective March 10, 2020 due to being on an approved leave of absence. The period of ineligibility will continue for the duration of the leave of absence.



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

May 20, 2020
Decision Dated and Mailed

abd/scn

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>.