

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

LUAH SUAH
Claimant

KRAFT HEINZ FOODS COMPANY LLC
Employer

APPEAL 20A-UI-06280-JC-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

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

Iowa Code § 96.4(3) – Able to and Available for Work
Iowa Admin. Code r. 871-24.23(10) – Leave of Absence

STATEMENT OF THE CASE:

The claimant/appellant, Luah Suah, filed an appeal from the June 12, 2020 (reference 02) Iowa Workforce Development (“IWD”) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on July 21, 2020. The claimant participated personally. The employer, Kraft Heinz Foods Company LLC., did not respond to the notice of hearing to furnish a phone number with the Appeals Bureau and did not participate in the hearing. .

The administrative law judge took official notice of the administrative records. Claimant Exhibit A was admitted. Based on the evidence, the arguments presented, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUES:

Is the claimant able to and available for work?
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: The claimant has worked for employer since 2019. Most recently, the claimant works for the employer, full-time, in production.

The claimant requested, and was approved for a personal leave of absence effective April 12, 2020. She took a leave of absence due to a lack of daycare for her young children. Her childcare provider closed for a period of time in response to COVID-19. The claimant was on a leave of absence from April 12, 2020 through June 7, 2020. The employer had work available to the claimant.

Since returning to work effective June 8, 2020, the claimant's hours have fluctuated and been reduced. The issue of whether the claimant is partially unemployed effective June 8, 2020 has not yet been addressed

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant is not able to and available for work April 12, 2020 through June 7, 2020. Effective June 8, 2020, the claimant is able and available for work.

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 96.1A, subsection 38, paragraph "b", subparagraph (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 Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(8) Where availability for work is unduly limited because of not having made adequate arrangements for child care.

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.

For an individual to be eligible to receive benefits, she must be able to work, available for work, and actively seeking work as required by the unemployment insurance law. Iowa Code § 96.4(3). The burden is on the claimant to establish that she is able and available for work within the meaning of the statute. Iowa Code § 96.6(2); Iowa Admin. Code r. 871-24.22.

For the period of April 12, 2020 through June 7, 2020: The administrative law judge recognizes the claimant has filed her current claim due to hardship related to the COVID-19 pandemic. Here, the employer has work available for the claimant. However, the claimant informed the employer she was unable to work due to her childcare being closed due to COVID-19. The employer agreed to allow the claimant time off for that reason. The claimant is considered to be

on a leave of absence and is not available for work, according to Iowa law. Therefore, the claimant is not eligible for regular, state-funded unemployment insurance benefits.

Effective June 8, 2020: The claimant has childcare and is able and available to perform full-time work. Accordingly, benefits are allowed, provided she is otherwise eligible.

The issue of whether the claimant is partially unemployed effective June 8, 2020 due to her hours being reduced is remanded for an initial investigation and determination.

Even though the claimant is not eligible for regular unemployment insurance benefits under state law April 12, 2020 through June 7, 2020, she 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. The claimant must apply for PUA, as noted in the instructions provided in the "Note to Claimant" below.

DECISION:

The unemployment insurance decision dated July 12, 2020, (reference 02) is modified in favor of the claimant/appellant. The claimant is not able and available for work April 12, 2020 through June 7, 2020. Regular unemployment insurance benefits funded by the state of Iowa are denied during this period.

Effective June 8, 2020, the claimant is able to and available for work. Benefits are allowed, provided she is otherwise eligible.

REMAND: The issue of whether the claimant is eligible for partial benefits effective June 8, 2020 is remanded to the Benefits Bureau for an initial decision and determination.

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.

If you do not qualify for regular unemployment insurance benefits due to disqualifying separations 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.** More information about how to apply for PUA is available online at: www.iowaworkforcedevelopment.gov/pua-information

If you have applied and have been approved for PUA benefits, this decision will not negatively affect your entitlement to PUA benefits.



Jennifer L. Beckman
Administrative Law Judge
Unemployment Insurance Appeals Bureau
Iowa Workforce Development
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax 515-478-3528

July 30, 2020
Decision Dated and Mailed

jlb/mh