

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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**STACY M DIVELEY**  
Claimant

**NEIGHBOR INSURANCE SERVICES INC**  
Employer

**APPEAL 21A-UI-14147-AD-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 03/14/21  
Claimant: Appellant (1R)**

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

**STATEMENT OF THE CASE:**

On June 17, 2021, Stacy Diveley (claimant/appellant) filed an appeal from the June 7, 2021 (reference 01) unemployment insurance decision that denied benefits as of March 14, 2021 based on a finding claimant is limiting her availability for work.

A telephone hearing was held on August 16, 2021. The parties were properly notified of the hearing. The claimant participated personally. Neighbor Insurance Services Inc. (employer/respondent) participated by Eldon Neighbor.

Claimant's Exhibit 1 was admitted. Official notice was taken of the administrative record.

**ISSUES:**

Is the claimant able to and available for work?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds:

Claimant's first day of employment was January 5, 2016. Claimant is employed by employer as a full-time insurance agent. Claimant's immediate supervisor is Mr. Neighbor. Claimant is still employed by employer and there is still full-time work available for claimant. However, her doctor has mandated she work from home and she is not able to do full-time work from home in her position.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the June 7, 2021 (reference 01) unemployment insurance decision that denied benefits as of March 14, 2021 based on a finding claimant is limiting her availability for work is **AFFIRMED**.

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".

While the administrative law judge is sympathetic to claimant's circumstances, her decision to work from home consistent with her doctor's recommendation is limiting her availability for work. There is full-time work available for claimant but she cannot complete it while working from home. As such, she does not meet the availability requirement to be eligible for benefits.

**While this decision denies regular, state benefits, the evidence indicates claimant may be eligible for federal Pandemic Unemployment Assistance (PUA). Further information on PUA, including how to apply, is set forth below.**

**DECISION:**

The June 7, 2021 (reference 01) unemployment insurance decision that denied benefits as of March 14, 2021 based on a finding claimant is limiting her availability for work is AFFIRMED.

**REMAND:**

Claimant states that she has reported to IWD that her unemployment insurance account has been “hacked” but that no further action has been taken. The issue of whether claimant’s account has been compromised is remanded to the Department for a determination and further appropriate action.



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

August 20, 2021  
Decision Dated and Mailed

abd/scn

***Note to Claimant:***

If you disagree with this decision, you may file an appeal with the Employment Appeal Board by following the instructions on the first page of this decision. If this decision denies benefits, you may be responsible for paying back benefits already received.

Individuals who are disqualified from or are otherwise ineligible for **regular** unemployment insurance benefits but who are 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.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>.