

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**AMBER TRUCKENMILLER**  
Claimant

**BALANCE AUTISM**  
Employer

**APPEAL 21A-UI-06353-ED-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 3/15/20  
Claimant: Appellant (1)**

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

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the February 25, 2021 unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on May 7, 2021 Claimant participated personally. Employer participated through employee Sonia Sledge. Claimant's exhibit's A-F were admitted into the record. Employer's exhibit's 1-3 were admitted into the record with claimant's son's medical information redacted.

**ISSUES:**

Was the claimant able to work and available for work?

**FINDINGS OF FACT:**

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

Claimant began working for the employer on October 16, 2018 as a full-time Behavior Technician. Claimant normally works approximately 30-35 hours per week. Due to the COVID-19 pandemic, hours worked were reduced for employees as clients could not attend appointments. In order to incentivize employees to work directly with patients they were paid a \$2 per hour premium over their normal pay rate when doing so. The employer attempted to keep its employees busy and assigned them administrative work that would normally be part of their roles only in a small way. When doing this work employees including claimant made their normally hourly pay rate in claimants case \$14.49 per hour. During the two weeks March 22 - April 3, 2020 claimant worked a total of 34.5 hours (17.25 hours per week). During the two weeks between April 5, 2020 through April 18, 2020 claimant worked a total of 21.96 hours. The employer received a loan from the Paycheck Protection Program (PPP) on April 19, 2020. Between April 19 and May 20, 2020 the employer paid the difference between the employee's pre-COVID-19 average weekly hours worked and their actual hours worked. Claimant admitted to turning down hours from the employer because she could pick up hours at her other employer.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes that the claimant is not able to or 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 96.19, 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".

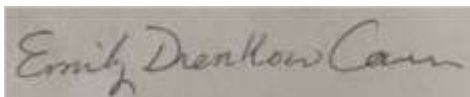
871—24.23(96) Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(23) The claimant's availability for other work is unduly limited because such claimant is working to such a degree that removes the claimant from the labor market.

Claimant admitted that she volunteered to work reduced hours if it help other staff gain hours or if it helped the company reduce costs. She also admitted that she then picked up hours at her other employer. The claimant requested reduced hours in order to help her coworkers and so she could work at her other job. While admirable, this means that the claimant was not able to, or available for work. She was working at her other job and as such her availability for work at the employer Balance Autism was unduly limited. Claimant was a paid a premium over her normal pay to continue to work with clients, and was paid her normal rate of pay to work in a variety of other duties, mostly administrative and typically not directly with clients. These duties fall specifically under the very concept of other duties as assigned. While out of the normal, they were not particularly or unduly burdensome. She was not being asked to do something unsafe or for which she could not be trained. This is not like asking an administrative employee versed in answering the phone and filing paperwork to begin engaging in direct client care. Claimant was not able to or available for work, and as such is not eligible for benefits.

**DECISION:**

The February 25, 2021 unemployment insurance decision is affirmed. Claimant was not able to or available for work. Benefits are denied.



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Emily Drenkow Carr  
Administrative Law Judge

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May 24, 2021  
Decision Dated and Mailed

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