

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JILL M BIGLER
Claimant

ABCM CORPORATION
Employer

APPEAL 20A-UI-08519-AD-T
ADMINISTRATIVE LAW JUDGE
DECISION

OC: 03/15/20
Claimant: Appellant (5)

Iowa Code § 96.4(3) – Eligibility – A&A – Able to, available for, work search
Iowa Admin. Code r. 871-24.23(26) – Eligibility – A&A – Part-time same hours, wages
Iowa Code § 96.7(2)a(2) – Charges – Same base period employment

STATEMENT OF THE CASE:

On July 24, 2020, Jill Bigler (claimant/appellant) filed a timely appeal from the Iowa Workforce Development decision dated July 16, 2020 (reference 02) that denied benefits as of March 15, 2020, based on a finding claimant was still employed in the same way and as such was not partially unemployed.

A telephone hearing was held on August 31, 2020. The parties were properly notified of the hearing. Claimant participated personally. ABCM Corporation (employer/respondent) participated by . HR Coordinator Kristy Puffett and Director of Nursing Kristin Delagardelle.

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

ISSUE(S):

- I. Is the claimant totally, partially, or temporarily unemployed?
- II. Is the claimant able to and available for work?
- III. Is the claimant still employed at the same hours and wages? Is the employer's account subject to charge? Is the claimant an on-call worker?

FINDINGS OF FACT:

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

Claimant began working for employer on April 20, 2016. Claimant was employed in an on-call position until she resigned on April 22, 2020, to focus on her personal business. That business experienced a downtick due to the pandemic.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the decision dated July 16, 2020 (reference 02) that denied benefits as of March 15, 2020 is MODIFIED with no change in effect. Claimant was initially still employed in the same way and therefore not eligible for benefits. Following her separation, she was not available for work as she was focusing on her personal business. Benefits are denied.

Iowa Code section 96.19(38) provides:

"Total and partial unemployment".

a. An individual shall be deemed "*totally unemployed*" in any week with respect to which no wages are payable to the individual and during which the individual performs no services.

b. An individual shall be deemed partially unemployed in any week in which either of the following apply:

(1) While employed at the individual's then regular job, the individual works less than the regular full-time week and in which the individual earns less than the individual's weekly benefit amount plus fifteen dollars.

(2) The individual, having been separated from the individual's regular job, earns at odd jobs less than the individual's weekly benefit amount plus fifteen dollars.

c. An individual shall be deemed temporarily unemployed if for a period, verified by the department, not to exceed four consecutive weeks, the individual is unemployed due to a plant shutdown, vacation, inventory, lack of work or emergency from the individual's regular job or trade in which the individual worked full-time and will again work full-time, if the individual's employment, although temporarily suspended, has not been terminated.

Iowa Admin. Code r. 871-24.23(26) provides:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(26) Where a claimant is still employed in a part-time job at the same hours and wages as contemplated in the original contract for hire and is not working on a reduced workweek basis different from the contract for hire, such claimant cannot be considered partially unemployed.

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".

Claimant was employed in an on-call position until she resigned on April 22, 2020, to focus on her personal business. Until her resignation, claimant is not eligible for benefits because she remained employed in an on-call position. Following her resignation, she was not available for work and therefore ineligible for benefits because she was focusing on her personal business. Benefits are denied.

DECISION:

The decision dated July 16, 2020 (reference 02) that denied benefits as of March 15, 2020 is MODIFIED with no change in effect. Claimant was initially still employed in the same way and therefore not eligible for benefits. Following her separation, she was not available for work and therefore ineligible for benefits, as she was focusing on her personal business. Benefits are denied.



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

September 1, 2020
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 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.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>.