

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ANNA E KITSMILLER
Claimant

VIRGINIA GAY HOSPITAL
Employer

APPEAL 21A-UI-00156-DB-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 09/13/20
Claimant: Respondent (2)

Iowa Code § 96.4(3) – Able to and Available for Work
Iowa Code § 96.19(38)B – Total, Partial, and Temporary Unemployment

STATEMENT OF THE CASE:

The employer/appellant filed an appeal from the November 24, 2020 (reference 02) unemployment insurance decision that found claimant was eligible for unemployment benefits due to a short term layoff. The parties were properly notified of the hearing. A telephone hearing was held on February 3, 2021. The claimant, Anna E. Kitsmiller, participated personally. The employer, Virginia Gay Hospital, participated through witnesses Taylor Frank and Kim Frank. The administrative law judge took administrative notice of the claimant's unemployment insurance benefits records.

ISSUES:

Is the claimant eligible for total, partial, or temporary unemployment benefits?
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 started working for this employer on October 2, 2019. She is still employed to date. She works full-time as a registered nurse and health coach. On September 11, 2020, claimant was diagnosed with COVID 19 and was suffering from symptoms. She was off work for her illness from September 11, 2020 through September 19, 2020. She was not paid any wages while she was off of work.

Due to her diagnosis, the claimant's minor child was required to quarantine as well. The claimant was home caring for her minor child while she was out of school from September 20, 2020 through October 3, 2020. Work was available if the claimant would have been able to and available for work.

Claimant received payments under the FFCRA during the two weeks in which she was home with her daughter during quarantine. Claimant has not yet filed an application for Federal Pandemic Unemployment Assistance benefits.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes as follows:

Iowa Code § 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", 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 Code § 96.19(38)b provides:

As used in this chapter, unless the context clearly requires otherwise:

38. "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(1) provides:

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

(1) An individual who is ill and presently not able to perform work due to illness.

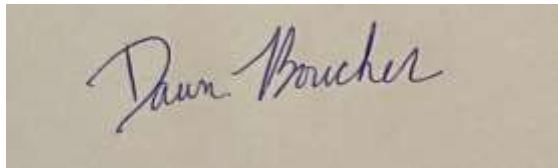
Iowa Admin. Code r. 871—24.23 Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

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

In this case, the claimant was not on a short-term layoff and was not partially unemployed. She was totally unemployed because she was ill and unable to work due to her quarantine and her daughter's quarantine. As such, she was not able to and available for work according to Iowa law. Regular unemployment insurance benefits funded by the State of Iowa are denied effective September 13, 2020 through October 3, 2020 due to the claimant not being able to and available for work.

DECISION:

The November 24, 2020 (reference 02) decision is reversed. Claimant was not able to and available for work. Regular unemployment insurance benefits funded by the State of Iowa are denied effective September 13, 2020 through October 3, 2020.



Dawn Boucher
Administrative Law Judge

February 16, 2021
Decision Dated and Mailed

db/ol

Note to Claimant

- This decision determines you are not eligible for regular unemployment insurance benefits funded by the State of Iowa under state law. 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 funded by the State of Iowa under state law, you may qualify for benefits under the Federal Pandemic Unemployment Assistance ("PUA") section of the Coronavirus Aid, Relief, and Economic Security Act ("Cares Act") that discusses eligibility for claimants who are unemployed due to the Coronavirus.
- **You will need to apply for PUA to determine your eligibility under the program.**
For additional information on how to apply for PUA go to:
<https://www.iowaworkforcedevelopment.gov/pua-information>.
- If you are denied regular unemployment insurance benefits funded by the State of Iowa

and wish to apply for PUA, please visit:

<https://www.iowaworkforcedevelopment.gov/pua-information> and scroll down to “Submit Proof Here.” You will fill out the questionnaire regarding the reason you are not working and upload a picture or copy of your fact-finding decision. Your claim will be reviewed for PUA eligibility. If you are eligible for PUA, you will also be eligible for Federal Pandemic Unemployment Compensation (FPUC) until the program expires. Back payments PUA benefits may automatically be used to repay any overpayment of state benefits. If this does not occur on your claim, you may repay any overpayment by visiting: <https://www.iowaworkforcedevelopment.gov/unemployment-insurance-overpayment-and-recovery>.

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