

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**MERCY TAMBEAGBOR**  
Claimant

**GRAPETREE MEDICAL STAFFING INC**  
Employer

**APPEAL 20A-UI-03956-JC-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 03/29/20**  
**Claimant: Appellant (1)**

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

**STATEMENT OF THE CASE:**

The claimant/appellant, Mercy Tambeagbor, filed an appeal from the May 4, 2020 (reference 01) Iowa Workforce Development (“IWD”) unemployment insurance decision that denied benefits, concluding she was not able and available for work, due to a lack of childcare. The parties were properly notified about the hearing. A telephone hearing was held on May 29, 2020. The claimant participated personally. The employer, Grapetree Medical Staffing Inc., participated through Elizabeth Soper, human resources.

The administrative law judge took official notice of the administrative records. Employer Exhibits 1 and Claimant Exhibit A were 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.

**NOTE TO CLAIMANT:** You may find additional information about food, housing, and other resources by dialing 211 or at <https://dhs.iowa.gov/node/3250>

**NOTE TO EMPLOYER:**

If you wish to change the address of record, please access your account at:  
<https://www.myiowaui.org/UITIPTaxWeb/>.

**ISSUE:**

Is the claimant able to work and available for work effective March 29, 2020?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant has been employed on a part-time/on call basis as a certified nursing assistant (CNA) since 2018. She does not work for any other employer. Her schedule is determined by her selecting available shifts on the employer’s online application, or through last minute requests that are sent to her via text message.

On March 6, 2020, the claimant's husband went to Africa to bury his father. He has been unable to return due airline/airport issues related to COVID-19. The claimant's childcare was temporarily closed but has reopened. The claimant is not permitted to send her children back to daycare due to unpaid tuition/charges (Claimant Exhibit A). The claimant has no childcare available at this time, and therefore cannot accept shifts. Further, the claimant's phone was shut off due to non-payment for a period of time, so she was unable to access available shifts to pick up, even if she could make arrangements for childcare. The claimant hopes to be available for work in August or September, when her husband is able to return back to Iowa.

### **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant is not able and available for work effective March 29, 2020.

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".

Iowa Admin. Code r. 871-24.23(16) provides:

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

(16) Where availability for work is unduly limited because a claimant is not willing to work during the hours in which suitable work for the claimant is available.

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 administrative law judge is sympathetic to the claimant's situation, and recognizes that some of the issues impacting her availability for work are out of her control. In this case, the evidence fails to establish the claimant is able to and available for work as defined by the unemployment insurance law. As such, the claimant is ineligible for regular unemployment insurance benefits. Benefits are denied.

While the claimant may not be eligible for regular State of Iowa unemployment insurance benefits, she may be eligible for unemployment insurance benefits that have been made available to claimants under the Coronavirus Aid, Relief, and Economic Security Act ("Cares Act"). The Pandemic Unemployment Assistance ("PUA") section of the Cares Act discusses eligibility for claimants who are unemployed due to the Coronavirus. For claimants who are ineligible for regular unemployment insurance benefits under Iowa Code Chapter 96, they may be eligible under PUA.

*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. Individuals who do not qualify 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 under the program.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>.

**DECISION:**

The unemployment insurance decision dated May 4, 2020, (reference 01) is affirmed. The claimant is not able and available for work effective March 29, 2020. Benefits are denied. If the claimant's circumstances change, she should contact IWD to determine if her eligibility can be reconsidered.



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Jennifer L. Beckman  
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June 4, 2020  
Decision Dated and Mailed

jlb/mh