

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

CHRISTOPHER D ANDERSON
Claimant

APPEAL 20A-UI-05095-JC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

SEABOARD FOODS SERVICES INC
Employer

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

Iowa Code § 96.4(3) – Able and Available
Iowa Admin. Code r. 871-24.22(2)j – Benefit Eligibility Conditions – Leave of Absence
Iowa Admin. Code r. 871-24.23(10) – Availability Disqualifications – Leave of Absence
Iowa Code § 96.3(7) – Recovery of Benefit Overpayment
PL116-136, Sec. 2104 – Federal Pandemic Unemployment Compensation (FPUC)

STATEMENT OF THE CASE:

The claimant, Christopher D. Anderson, appealed the May 28, 2020 (reference 02) initial decision that denied benefits. After proper notice, a telephone hearing was conducted on June 29, 2020. The claimant participated personally. The employer, Seaboard Food Services Inc., participated through Rachael Kroeze, human resources generalist. Claimant Exhibits A and B were admitted. The administrative law judge took official notice of the administrative records including the fact-finding documents. 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.

ISSUES:

Is the claimant able to and available for work effective March 29, 2020?
Is the claimant on an approved leave of absence?
Is the claimant overpaid benefits?
Is the claimant eligible for Federal Pandemic Unemployment Compensation?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant has worked for employer since August 30, 2017 as a full-time animal caretaker.

Claimant established his claim for unemployment insurance benefits with an effective date of March 29, 2020. He performed full-time work for the week ending April 4, 2020.

The claimant requested, and was approved for a personal leave of absence effective April 5, 2020. Due to COVID-19, the claimant's childcare provider closed effective April 2, 2020, and did not reopen until June 8, 2020. The claimant has three children under age eleven. He stayed home with the children while his wife worked. He returned to work April 26, 2020 and

performed work until May 3, 2020. He was on a second leave of absence May 4-11, 2020 due to his family being exposed to COVID-19. The employer had full-time work available to the claimant.

Despite being denied benefits after the initial fact-finding, the decision was made by Iowa Workforce Development to release funds of claimants while their claims were pending due to the backlog caused by the recent COVID 19 outbreak. Claimant was one of the individuals whose funds were released pending the initial decision. The administrative record shows, claimant filed for and received a total of \$2,180.00 in unemployment insurance benefits for the weeks between March 29, 2020 and May 16, 2020.

The claimant also received federal unemployment insurance benefits through Federal Pandemic Unemployment Compensation (FPUC). Claimant received \$2,400.00 in federal benefits.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant is not able to and available for work.

In order to receive regular unemployment insurance benefits under Chapter 96 of the Iowa Code, an unemployed claimant must establish he or she is able to and available for work. Iowa Code § 96.4(3).

Iowa Admin. Code r. 871-24.23(10) provides:

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

(10) The claimant requested and was granted a leave of absence, such period is deemed to be a period of voluntary unemployment and shall be considered ineligible for benefits for such period.

Iowa Admin. Code r. 871-24.23(23) provides:

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.

For the periods of April 6 through April 27, 2020 and May 4 through May 11, 2020:

Here, employer has work available for claimant. However, claimant informed employer he was unable to work due to a lack of childcare, and then due to COVID-19 exposure with a family member living in the claimant's home. Employer agreed to allow claimant time off for that reason. Claimant has not established he was able to and available for work.

For the period of April 28, through May 3, 2020:

Because the claimant worked full-time during this period, he was no longer unemployed, and therefore not eligible for benefits.

As claimant has received benefits to which he was not entitled, the next issue in this case is whether the claimant was overpaid unemployment insurance benefits.

Iowa Code § 96.3(7) provides, in pertinent part:

7. Recovery of overpayment of benefits.

a. If an individual receives benefits for which the individual is subsequently determined to be ineligible, even though the individual acts in good faith and is not otherwise at fault, the benefits shall be recovered. The department in its discretion may recover the overpayment of benefits either by having a sum equal to the overpayment deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment.

Since the decision disqualifying the claimant has been affirmed, the claimant was overpaid \$2,180.00 in regular unemployment insurance benefits.

PL116-136, Sec. 2104 provides, in pertinent part:

(b) Provisions of Agreement

(1) Federal pandemic unemployment compensation.--Any agreement under this section shall provide that the State agency of the State will make payments of regular compensation to individuals in amounts and to the extent that they would be determined if the State law of the State were applied, with respect to any week for which the individual is (disregarding this section) otherwise entitled under the State law to receive regular compensation, as if such State law had been modified in a manner such that the amount of regular compensation (including dependents' allowances) payable for any week shall be equal to

(A) the amount determined under the State law (before the application of this paragraph), plus

(B) an additional amount of \$600 (in this section referred to as "Federal Pandemic Unemployment Compensation").

....

(f) Fraud and Overpayments

(2) Repayment.--In the case of individuals who have received amounts of Federal Pandemic Unemployment Compensation to which they were not entitled, the State shall require such individuals to repay the amounts of such Federal Pandemic Unemployment Compensation to the State agency...

Here, the claimant is disqualified from receiving regular unemployment insurance (UI) benefits. Accordingly, this also disqualifies claimant from receiving Federal Pandemic Unemployment Compensation (FPUC). In addition to the regular UI benefits claimant received, he also received an additional \$2400.00 in FPUC benefits.

Even though claimant is not eligible for regular unemployment insurance benefits under state law, he may be eligible for federally funded unemployment insurance benefits under the

Coronavirus Aid, Relief, and Economic Security Act (“Cares Act”), Public Law 116-136. Section 2102 of the CARES Act creates a new temporary federal program called Pandemic Unemployment Assistance (PUA) that in general provides up to 39 weeks of unemployment benefits. An individual receiving PUA benefits may also receive the \$600 weekly benefit amount (WBA) under the Federal Pandemic Unemployment Compensation (FPUC) program if he or she is eligible for such compensation for the week claimed. Claimant must apply for PUA, as noted in the instructions provided in the “Note to Claimant” below.

DECISION:

The May 28, 2020, (reference 02) unemployment insurance decision is AFFIRMED. The claimant is not able to work and available for work effective March 29, 2020. Regular unemployment insurance benefits funded by the state of Iowa are denied until such time claimant is able to and available for work. If the circumstances change and claimant believes the disqualification can be removed, he should contact Iowa Workforce Development.

The claimant has been overpaid \$2,180.00 in regular unemployment insurance benefits. The claimant has also been overpaid \$2,400.00 in Federal Pandemic Unemployment Compensation. The claimant may have to repay the benefits received thus far, unless claimant applies and is approved for PUA, as directed in the paragraph below.



Jennifer L. Beckman
Administrative Law Judge
Unemployment Insurance Appeals Bureau
Iowa Workforce Development
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax 515-478-3528

July 13, 2020
Decision Dated and Mailed

jlb/scn

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>.