

**IOWA DEPARTMENT OF INSPECTIONS AND APPEALS
ADMINISTRATIVE HEARINGS DIVISION, UI APPEALS BUREAU**

CHYANE M LAFAVE
Claimant

CASEY'S MARKETING COMPANY
Employer

APPEAL 23A-UI-05264-DZ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 04/09/23
Claimant: Appellant (4)**

Iowa Code § 96.4(3) – Able to and Available for Work

STATEMENT OF THE CASE:

Chyane M. LaFave, the claimant/appellant,¹ filed an appeal from the Iowa Workforce Development (IWD) May 16, 2023 (reference 02) unemployment insurance (UI) decision. The decision denied Ms. LaFave REGULAR (state) UI benefits as of April 9, 2023 because IWD concluded she asked the employer for and was granted a leave of absence so she was unavailable for work. The Iowa Department of Inspections and Appeals UI Appeals Bureau mailed notices of hearing to Ms. LaFave and the employer. The undersigned administrative law judge held a telephone hearing on June 26, 2023. Ms. LaFave participated personally. The employer did not participate in the hearing. The undersigned admitted Claimant's Exhibits A-B as evidence.

ISSUE:

Is Ms. LaFave able to and available for work as of April 9, 2023?
Is Ms. LaFave on an approved leave of absence?

FINDINGS OF FACT:

Having reviewed the evidence in the record, the administrative law judge finds: Ms. LaFave began working for the employer on April 29, 2022. She works as a full-time store team member. The week of April 9, 2023, Ms. LaFave began experiencing pregnancy complications. Ms. LaFave's doctor advised her to be on bed rest from April 13 through her due date. Ms. LaFave told the employer about her doctor's advice. The employer put Ms. LaFave on unpaid medical leave. Ms. LaFave stopped working and began bed rest.

On April 25, Ms. LaFave sent a request to the employer's third-party leave administrator, ReedGroup, asking for leave beginning April 13. The employer denied her request on May 11. Ms. LaFave gave birth in mid-June. The employer placed Ms. LaFave on paid leave as of June 23. As of the hearing date, Ms. LaFave's doctor has not released her to return to work.

¹ Claimant is the person who filed the UI claim with IWD. Appellant is the person or employer who filed the appeal.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the undersigned judge concludes Ms. LaFave is not able to and available for work as of April 13, 2023.

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 96.1A, subsection 37, paragraph "b", subparagraph (1), or temporarily unemployed as defined in section 96.1A, subsection 37, 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(10) and (35) provide:

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.

(35) Where the claimant is not able to work and is under the care of a medical practitioner and has not been released as being able to work.

To be able to work, "[a]n individual must be physically and mentally able to work in some gainful employment, not necessarily in the individual's customary occupation, but which is engaged in by others as a means of livelihood."² "An evaluation of an individual's ability to work for the purposes of determining that individual's eligibility for unemployment benefits must necessarily take into consideration the economic and legal forces at work in the general labor market in which the individual resides."³ A person claiming benefits has the burden of proof that she is able to work, available for work, and earnestly and actively seeking work.⁴

In this case, Ms. LaFave's doctor advised her to be on bed rest and not work as of April 13. Ms. LaFave's is still under her doctor's care and her doctor has not yet released her to return to work, so Ms. LaFave is not available for work as of April 13. Since Ms. LaFave is not able to and available for work as of April 13, 2023, benefits are denied as of this date.

² *Sierra v. Employment Appeal Board*, 508 N.W.2d 719, 721 (Iowa 1993); *Geiken v. Lutheran Home for the Aged*, 468 N.W.2d 223 (Iowa 1991); Iowa Admin. Code r. 871-24.22(1).

³ *Sierra* at 723.

⁴ Iowa Admin. Code r. 871-24.22.

DECISION:

The May 16, 2023 (reference 02) UI decision is MODIFIED IN FAVOR OF THE APPELLANT, MS. LAFAVE. Ms. LaFave is not able to and available for work as of April 13, 2023 when her doctor put her on medical leave. UI benefits are denied as of April 13, 2023.



Daniel Zeno
Administrative Law Judge

June 28, 2023
Decision Dated and Mailed

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APPEAL RIGHTS. If you disagree with the decision, you or any interested party may:

1. Appeal to the Employment Appeal Board within fifteen (15) days of the date under the judge's signature by submitting a written appeal via mail, fax, or online to:

**Employment Appeal Board
4th Floor – Lucas Building
Des Moines, Iowa 50319
Fax: (515)281-7191
Online: eab.iowa.gov**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

AN APPEAL TO THE BOARD SHALL STATE CLEARLY:

- 1) The name, address, and social security number of the claimant.
- 2) A reference to the decision from which the appeal is taken.
- 3) That an appeal from such decision is being made and such appeal is signed.
- 4) The grounds upon which such appeal is based.

An Employment Appeal Board decision is final agency action. If a party disagrees with the Employment Appeal Board decision, they may then file a petition for judicial review in district court.

2. If no one files an appeal of the judge's decision with the Employment Appeal Board within fifteen (15) days, the decision becomes final agency action, and you have the option to **file a petition for judicial review in District Court** within thirty (30) days after the decision becomes final. Additional information on how to file a petition can be found at Iowa Code §17A.19, which is online at <https://www.legis.iowa.gov/docs/code/17A.19.pdf> or by contacting the District Court Clerk of Court <https://www.iowacourts.gov/iowa-courts/court-directory/>.

Note to Parties: YOU MAY REPRESENT yourself in the appeal or obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds.

Note to Claimant: It is important that you file your weekly claim as directed, while this appeal is pending, to protect your continuing right to benefits.

SERVICE INFORMATION:

A true and correct copy of this decision was mailed to each of the parties listed.

DERECHOS DE APELACIÓN. Si no está de acuerdo con la decisión, usted o cualquier parte interesada puede:

1. Apelar a la Junta de Apelaciones de Empleo dentro de los quince (15) días de la fecha bajo la firma del juez presentando una apelación por escrito por correo, fax o en línea a:

**Employment Appeal Board
4th Floor – Lucas Building
Des Moines, Iowa 50319
Fax: (515)281-7191
En línea: eab.iowa.gov**

El período de apelación se extenderá hasta el siguiente día hábil si el último día para apelar cae en fin de semana o día feriado legal.

UNA APELACIÓN A LA JUNTA DEBE ESTABLECER CLARAMENTE:

- 1) El nombre, dirección y número de seguro social del reclamante.
- 2) Una referencia a la decisión de la que se toma la apelación.
- 3) Que se interponga recurso de apelación contra tal decisión y se firme dicho recurso.
- 4) Los fundamentos en que se funda dicho recurso.

Una decisión de la Junta de Apelaciones de Empleo es una acción final de la agencia. Si una de las partes no está de acuerdo con la decisión de la Junta de Apelación de Empleo, puede presentar una petición de revisión judicial en el tribunal de distrito.

2. Si nadie presenta una apelación de la decisión del juez ante la Junta de Apelaciones Laborales dentro de los quince (15) días, la decisión se convierte en acción final de la agencia y usted tiene la opción de **presentar una petición de revisión judicial en el Tribunal de Distrito** dentro de los treinta (30) días después de que la decisión adquiriera firmeza. Puede encontrar información adicional sobre cómo presentar una petición en el Código de Iowa §17A.19, que se encuentra en línea en <https://www.legis.iowa.gov/docs/code/17A.19.pdf> o comunicándose con el Tribunal de Distrito Secretario del tribunal <https://www.iowacourts.gov/iowa-courts/court-directory/>.

Nota para las partes: USTED PUEDE REPRESENTARSE en la apelación u obtener un abogado u otra parte interesada para que lo haga, siempre que no haya gastos para Workforce Development. Si desea ser representado por un abogado, puede obtener los servicios de un abogado privado o uno cuyos servicios se paguen con fondos públicos.

Nota para el reclamante: es importante que presente su reclamo semanal según las instrucciones, mientras esta apelación está pendiente, para proteger su derecho continuo a los beneficios.

SERVICIO DE INFORMACIÓN:

Se envió por correo una copia fiel y correcta de esta decisión a cada una de las partes enumeradas.