

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ADRIANA SAN ELIAS
Claimant

JOHN E CAMPBELL DDS PC
Employer

APPEAL 21A-UI-16073-CS-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 04/04/21
Claimant: Appellant (4R)**

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

STATEMENT OF THE CASE:

On July 20, 2021, the claimant/appellant filed an appeal from the July 22, 2021, (reference 04) unemployment insurance decision that denied benefits based on claimant not being available to work due to childcare. The parties were properly notified about the hearing. A telephone hearing was held on September 17, 2021. This appeal was heard together with appeal 21A-UI-16072-CS-T. Claimant participated at the hearing. Employer participated through owner, John E. Campbell, DDS.

ISSUE:

Is the Claimant able to work and available for work?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began working for employer in 2017. Claimant last worked as a full-time receptionist. The employer is a dental practice.

On March 20, 2020, the employer was mandatorily closed due to the COVID Pandemic. On May 4, 2020, the employer recalled the employees to resume working. The claimant has three children and was pregnant with another child. The claimant's three children attended Des Moines Public Schools and were required to attend school remotely. Claimant had her fourth child on June 19, 2020. Claimant did not have childcare for her children because the childcare centers had closed down or they would not take all of her children. The program that provided childcare for the claimant was provided through the Des Moines Public Schools and it was also closed. Additionally the claimant did not want to put her newborn in a daycare during the COVID pandemic. The claimant could not return to work because of her lack of childcare. On August 11, 2021, claimant began applying for jobs and was able to resume working. Claimant has had an interview but has not secured a new job. Claimant no longer has a lack of childcare.

Claimant has not returned to the employer to offer her services. However, the employer does not have any positions available for the claimant at this time.

It does not appear that claimant has applied for Pandemic Unemployment Assistance (PUA) benefits. Claimant is advised that she should consider applying for benefits by following the link set forth under the "Note to Claimant" at the end of this decision.

The issue of claimant's separation from employment has not been investigated by the Benefits Bureau of Iowa Workforce Development.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant is not able to and available for work effective May 4, 2020, and Claimant is able to and available for work effective August 11, 2021.

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(8) provides:

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, claimant requires childcare to attend work and she did not have childcare from May 10, 2020 through August 10, 2021. Claimant has not established that she is able to and available for work during this time period. Benefits are denied during this time period.

Claimant is able to and available for work effective August 11, 2021. Claimant has adequate childcare and can return back to work once she obtains a job. Benefits are allowed effective August 11, 2021.

DECISION:

The July 22, 2021, (reference 04) unemployment insurance decision is modified in favor of claimant. Claimant is not able to and available for work from May 4, 2020 through August 10, 2021. Benefits are denied during these weeks.

Claimant is able to and available for work effective August 11, 2021. Benefits are allowed effective August 11, 2021, provided claimant is otherwise eligible.

REMAND:

The issue of Claimant's separation from employment with this employer is remanded to the Benefits Bureau of Iowa Workforce Development for investigation and a decision.

A handwritten signature in cursive script that reads "Carly Smith". The signature is written in black ink on a light-colored background.

Carly Smith
Administrative Law Judge
Unemployment Insurance Appeals Bureau

September 22, 2021
Decision Dated and Mailed

cs/mh

NOTE TO CLAIMANT:

- This decision determines you are not eligible for regular unemployment insurance benefits under state law until August 11, 2021. 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 were unemployed or continue to be 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>. If this decision becomes final or if you are not eligible for PUA, you may have an overpayment of benefits.
- **ATTENTION:** On May 11, 2021, Governor Reynolds announced that Iowa will end its participation in federal pandemic-related unemployment benefit programs effective June 12, 2021. The last payable week for PUA in Iowa will be the week ending June 12, 2021. You may be eligible for benefits incurred prior to June 12, 2021. Additional information can be found in the press release at <https://www.iowaworkforcedevelopment.gov/iowa-end-participation-federal-unemployment-benefit-programs-citing-strong-labor-market-and>.