

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

TRACI D HARTMAN
Claimant

WESLEYLIFE
Employer

APPEAL 20A-UI-05799-CL-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

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

Iowa Code § 96.4(3) – Ability to and Availability for Work
Iowa Admin. Code r. 871-24.23(10) – Able & Available – Availability Disqualifications
Iowa Code § 96.3(7) – Recovery of Benefit Overpayment
PL 116-136, Sec. 2104(b) – Federal Pandemic Unemployment Compensation

STATEMENT OF THE CASE:

On June 11, 2020, the claimant filed an appeal from the June 2, 2020, (reference 01) unemployment insurance decision that denied benefits based on claimant's availability for work. The parties were properly notified about the hearing. A telephone hearing was held on July 16, 2020. Claimant participated. Employer participated through director of people and culture Jaymie Banks-Westfield and was represented by Jennifer Groenwold. Claimant's Exhibits A and B were received.

ISSUES:

Is the claimant able to and available for work?
Is the claimant on a voluntary leave of absence?
Was the claimant overpaid unemployment insurance 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 began working for employer in July 2014. Claimant works for employer as a full-time facility coordinator.

Claimant was off work from March 14, 2020, through April 1, 2020, because she was exhibiting signs of COVID 19. Claimant was unable to be tested. Claimant returned to work on a full-time basis on April 1, 2020.

Claimant did not file her claim until March 29, 2020, and her request to backdate the claim was denied. Claimant received regular unemployment insurance benefits and Federal Pandemic Unemployment Compensation since filing this claim. Claimant also received some paid time off while she was absent from work.

REASONING AND CONCLUSIONS OF LAW:

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

Here, claimant was off work because she was exhibiting signs of COVID 19. She later returned to work on a full-time basis. Claimant has not established she is able to and available for work, even under the United States Department of Labor's guidance to flexibly interpret this requirement. See Unemployment Insurance Program Letter No. 10-20. Therefore, claimant is not eligible for regular, state-funded unemployment insurance benefits from the effective date of her claim.

Even though claimant is not eligible for regular unemployment insurance benefits under state law, she 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.

The administrative law judge will not consider the issue of whether claimant has been overpaid benefits prior to the denial decision being issued, as claimant may be eligible for Pandemic Unemployment Assistance, and in that case, such a decision would be unnecessary. However, the administrative law judge cautions claimant that if she is not approved for PUA, she may be found to have been overpaid benefits and will have to repay those benefits.

DECISION:

The June 2, 2020, (reference 01) unemployment insurance decision is affirmed. The claimant is not available for work effective March 29, 2020, and regular, state-funded unemployment insurance benefits are denied. Claimant may be eligible for Pandemic Unemployment Assistance.



Christine A. Louis
Administrative Law Judge
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515)478-3528

July 24, 2020

Decision Dated and Mailed

cal/sam

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 or have been unemployed for reasons related to COVID-19 may qualify for Pandemic Unemployment Assistance (PUA).

You will have to apply for PUA benefits. Additional information on PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>.

If you are not allowed PUA benefits, the agency may find that you have been overpaid benefits and you may be required to repay the benefits you have received.