

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

MEGAN A REYES URIZAR
Claimant

OPTIMAE LIFESERVICES INC
Employer

APPEAL 21A-UI-02484-AD-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 10/11/20
Claimant: Appellant (4)

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

STATEMENT OF THE CASE:

On December 31, 2020, Megan Reyes Urizar (claimant/appellant) filed an appeal from the December 22, 2020 (reference 01) unemployment insurance decision that denied benefits as of October 11, 2020 based on a finding claimant was unable to work due to illness.

A telephone hearing was held on March 5, 2021. The parties were properly notified of the hearing. The claimant participated personally. Optimae Lifeservices Inc (employer/respondent) did not register a number for the hearing and did not participate.

ISSUES:

Is the claimant able to 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 approximately August 2020. Claimant worked for employer as a full-time caregiver. The last day claimant performed work for employer was on or about October 11, 2020. At that time employer informed claimant she may have been exposed to COVID-19 through contact with a client and held her out of work. Claimant was set to return to work on October 19, 2020 but learned on or about that date that another one of her clients may have been exposed to COVID-19 as well. Because of that, there was no work available for her for another two weeks.

When claimant was set to return to work in early November, her doctor determined to hold her out due to underlying health conditions which made her particularly vulnerable to COVID-19. Claimant's doctor released her to return to work on or about December 15, 2020. However, when she attempted to return, she was informed her position had been filled.

Claimant has since been able to and available for work and searching for work in her field. Claimant has filed a claim for benefits each week from the benefit week ending October 17, 2020 through the benefit week ending February 27, 2021.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the December 22, 2020 (reference 01) unemployment insurance decision that denied benefits as of October 11, 2020 based on a finding claimant was unable to work due to illness is MODIFIED in favor of appellant. Claimant is eligible for benefits as set forth below.

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(35) provides:

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

(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.

Claimant was able to and available for work from the benefit week ending October 17, 2020 through the benefit week ending October 31, 2020 but no work was available for her. This is because employer either held claimant out of work or no work was available for her. Claimant is eligible for benefits during those weeks.

Claimant was not available for work from the benefit week ending November 7, 2020 through the benefit week ending December 12, 2020. This is because claimant's doctor was holding her out of work during this time. Claimant is ineligible for benefits during these weeks.

Claimant was able to and available for work from the benefit week ending December 19, 2020 and continuing to date. Claimant was able to work and made herself available for work with employer on or about December 15, 2020, after her doctor released her. However, there was no work available with employer at that time. Claimant has since been searching for work for which she is qualified. Claimant is therefore eligible for benefits from the week ending December 19, 2020 and forward.

DECISION:

The December 22, 2020 (reference 01) unemployment insurance decision that denied benefits as of October 11, 2020 based on a finding claimant was unable to work due to illness is MODIFIED in favor of appellant. Claimant is eligible for benefits as set forth above.



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

March 10, 2021
Decision Dated and Mailed

abd/ol

Note to Claimant:

If you disagree with this decision, you may file an appeal with the Employment Appeal Board by following the instructions on the first page of this decision. If this decision denies benefits, you may be responsible for paying back benefits already received.

Individuals who are disqualified from or are otherwise ineligible for **regular** unemployment insurance benefits but who are 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.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>.