

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

DARCY D HAVEL-STUDEVANT
Claimant

THE UNIVERSITY OF IOWA
Employer

APPEAL 20A-UI-08330-NM-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 04/12/20
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

STATEMENT OF THE CASE:

On July 16, 2020, the claimant filed an appeal from the July 14, 2020, (reference 01) unemployment insurance decision that denied benefits based on a determination that she was unable to work due to illness. A telephone hearing was held on August 26, 2020. Claimant participated and was represented by attorney Marlon Mormann. Employer did not participate. Claimant's Exhibits A through C were received into evidence.

ISSUES:

Is the claimant able to and available for work?
Is the claimant on a voluntary leave of absence?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began working for employer on May 31, 2016. Claimant works for employer as a part-time nursing unit clerk.

In March 2020, the United States declared a public health emergency because of the COVID 19 pandemic. On March 13, 2020 claimant became ill with symptoms consistent with COVID 19. Claimant began a leave of absence on that date. Claimant was working in a unit with COVID 19 positive individuals. Claimant and her family began to self-isolate in early March, with claimant only going to and from work. On April 25, 2020, claimant had a COVID 19 test performed. The test results were positive. (Exhibit C). Claimant's doctor noted it was highly likely she contracted the virus while at work. Claimant has underlying health conditions and continues to experience symptoms. Her doctor has restricted her from any work until September 24, 2020, at which time she is released with restriction until at least October 24, 2020. (Exhibit A).

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 April 12, 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.

Here, claimant is on a leave of absence due to COVID-19. While it seems highly likely that claimant contracted the virus while at work, this has not been definitely established. 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 the claim.

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

DECISION:

The July 14, 2020, (reference 01) unemployment insurance decision is affirmed. The claimant is not available for work effective April 12, 2020, and regular, state-funded unemployment insurance benefits are denied. Claimant may be eligible for Pandemic Unemployment Assistance.



Nicole Merrill
Administrative Law Judge

August 27, 2020
Decision Dated and Mailed

nm/scn

NOTE TO CLAIMANT:

- This decision determines you are not eligible for regular unemployment insurance benefits under state law. 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.
- If you do not qualify for regular unemployment insurance benefits under state law and are currently unemployed for reasons related to COVID-19, you may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility under the program, if you have not already done so.** For more information on how to apply for PUA, go to <https://www.iowaworkforcedevelopment.gov/pua-information>. **If you do not apply for and are not approved for PUA, you may be required to repay the benefits you've received so far.**