

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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**KALANTINGA B BARARMNA BOUKPESSI**  
Claimant

**APPEAL NO. 21A-UI-07900-JT-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**WHIRLPOOL CORPORATION**  
Employer

**OC: 11/24/19  
Claimant: Appellant (1)**

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Iowa Code Section 96.4(3) – Able & Available

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the March 16, 2021, reference 04, decision that denied benefits for the two weeks between May 17, 2020 and May 30, 2020, based on the deputy's conclusion that the claimant was ill and, therefore, not available for work during that period. After due notice was issued, a hearing was held on May 27, 2021. Claimant participated. The employer did not provide a telephone number for the hearing and did not participate. French-English interpreter Lawrence Eliakim of CTS Language Link assisted with the hearing. Exhibit A was received into evidence. The administrative law judge took official notice of the following Agency administrative records: KCCO and DBRO.

**ISSUE:**

Whether the claimant was able to work and available for work during the two weeks between May 17, 2020 and May 30, 2020.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant has at all relevant times been employed by Whirlpool Corporation as a full-time Inspector First Class. The claimant's usual work hours are 7:00 a.m. to 3:30 p.m., Monday through Friday. During the period in question, the claimant was working an overnight shift. On Sunday, May 17, 2020, the claimant began to experience fever and headache. The claimant's fever was above 38 degrees Celsius (above 100.4 degrees Fahrenheit). The claimant's symptoms were consistent with COVID-19. On Monday morning, May 18, 2020, the claimant notified the employer of her symptoms. The employer told the claimant she would have to remain off work for two weeks. The claimant's headache and fever continued throughout the two-week period the claimant was away from work and only abated in response to Tylenol. Despite the claimant's ill state, she desired to report for work during the two-week period. During the time in question, the claimant was unable to access COVID-19 testing due to limited availability of such testing. The claimant did not see a doctor regarding her symptoms. The claimant lacked a primary care physician, was dependent on trips to the emergency room for medical evaluation and treatment, but was unable to access the emergency room due to the COVID-19 restrictions on access. The claimant periodically updated the employer on her

symptoms. This included a call to the employer on May 26, 2020. The claimant returned to work on or about June 1, 2020. On June 7, 2020, the claimant received a COVID-19 test result and tested negative at that time. The weight of the evidence indicates the test was conducted right before the claimant returned to work or during the week the claimant returned to work following her illness.

The claimant established an additional claim for benefits that was effective May 16, 2020. The claimant made weekly claims for the weeks that ended May 13, 2020 and May 30, 2020 and received benefits for those weeks. The claimant then discontinued her claim in connection with her return to the employment.

### **REASONING AND CONCLUSIONS OF LAW:**

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. 871-24.22(2) provides:

Benefits eligibility conditions. For an individual to be eligible to receive benefits the department must find that the individual is able to work, available for work, and earnestly and actively seeking work. The individual bears the burden of establishing that the individual is able to work, available for work, and earnestly and actively seeking work.

(2) Available for work. The availability requirement is satisfied when an individual is willing, able, and ready to accept suitable work which the individual does not have good cause to refuse, that is, the individual is genuinely attached to the labor market. Since, under unemployment insurance laws, it is the availability of an individual that is required to be tested, the labor market must be described in terms of the individual. A labor market for an individual means a market for the type of service which the individual offers in the geographical area in which the individual offers the service. Market in that sense does not mean that job vacancies must exist; the purpose of unemployment insurance is to compensate for lack of job vacancies. It means only that the type of services which an individual is offering is generally performed in the geographical area in which the individual is offering the services.

Iowa Admin. Code r. 871-24.23(1) provides:

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

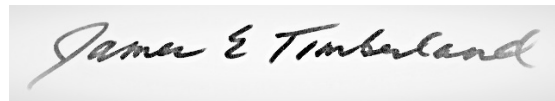
(1) An individual who is ill and presently not able to perform work due to illness.

The weight of the evidence establishes that the claimant was sick with COVID-19 and unable to work during the two-week period of May 17, 2020 through May 30, 2020. The claimant is not eligible for regular benefits for that period.

Even though claimant is not eligible for regular state 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. The claimant will need to file an application for Pandemic Unemployment Assistance (PUA) in order to be considered for those benefits. See below. The administrative law judge did also share the web address with the claimant at the time of the hearing.

**DECISION:**

The March 16, 2021, reference 04, decision is affirmed. The claimant was ill and unavailable for work within the meaning of the law during the two weeks between May 17, 2020 and May 30, 2020. The claimant is not eligible for regular state benefits for that period.



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James E. Timberland  
Administrative Law Judge

June 8, 2021  
Decision Dated and Mailed

jet/kmj

**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 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 that you must repay.

**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. 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>.