

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

MELISSA SKINNER
Claimant

CONAGRA FOODS PACKAGED FOODS
Employer

APPEAL NO. 20A-UI-06391-B2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 04/05/20
Claimant: Appellant (1)

Iowa Admin. Code ch. 871 r. 24.23(10) – Leave of Absence
Iowa Code § 96.4-3 – Able and Available
Iowa Code § 96.3(7) – Recovery of Benefit Overpayment
Federal Law PL 116-136 Sec. 2104 – Eligibility for Federal Pandemic Unemployment Compensation

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated June 8, 2020 reference 01, which held claimant not able and available for work. After due notice, a hearing was scheduled for and held on July 22, 2020. Claimant participated personally and with witness Gunther Anderson. Employer participated by hearing representative Toni McColl and witness Sarah Yaley.

ISSUE:

Whether claimant is able and available for work?

Whether claimant is on an approved leave of absence?

Whether claimant has been overpaid state unemployment benefits?

Whether claimant is eligible to receive Federal Pandemic Unemployment Compensation?

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant works as a full time production tech for employer. During the dates of April 5, 2020 to June 16, 2020 claimant asked for and was granted a leave of absence from her employer.

Claimant has asthma. As such, claimant is in a high risk category should she contract Covid. At or around the time that claimant requested her leave, employer had not yet employed procedures to protect its employees against contracting Covid. Claimant went to human resources to request the leave and offered to provide medical documentation in support of her request. Employer did not ask claimant to provide medical documentation and granted the leave without the doctor's note.

Claimant's leave continued through June 16, 2020. At that time claimant returned to work. In the interim, employer began requiring face masks and shields at work, temperature checks upon entrance, and enhanced sanitation and disinfecting actions.

REASONING AND CONCLUSIONS OF LAW:

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 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(1)a 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.

(1) Able to work. An individual must be physically and mentally able to work in some gainful employment, not necessarily in the individual's customary occupation, but which is engaged in by others as a means of livelihood.

a. Illness, injury or pregnancy. Each case is decided upon an individual basis, recognizing that various work opportunities present different physical requirements. A statement from a medical practitioner is considered prima facie evidence of the physical ability of the individual to perform the work required. A pregnant individual must meet the same criteria for determining ableness as do all other individuals.


In this matter, claimant asked for and was granted a leave of absence. Such leave meant claimant was not able and available for work for the period between April 5, 2020 and June 16, 2020. Benefits are withheld for this period.

Note to Claimant: 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. **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>.

DECISION:

The decision of the representative dated June 8, 2020, reference 01 is affirmed. Claimant is not eligible to receive unemployment insurance benefits, between the period of April 5, 2020 and June 16, 2020, as claimant asked for and received a leave of absence for that period.



Blair A. Bennett
Administrative Law Judge

July 29, 2020
Decision Dated and Mailed

bab/sam