

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**JAMIE L FORBES**  
Claimant

**GOVERNMENT EMPLOYEES INSURANCE  
COMPANY**  
Employer

**APPEAL 20A-UI-08517-S1-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 03/15/20**  
**Claimant: Appellant (1)**

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Iowa Code § 96.4-3 – Able and Available  
871 IAC 24.23(10) – Voluntary Leave of Absence

**STATEMENT OF THE CASE:**

Jamie Forbes (claimant) appealed a representative's July 2, 2020, decision (reference 01) that concluded ineligibility to receive unemployment insurance benefits as of March 15, 2020, because a leave of absence was granted by Government Employees Insurance Company (employer) at the claimant's request. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for August 31, 2020. The claimant participated personally. The employer did not provide a telephone number where it could be reached and therefore, did not participate in the hearing. The administrative law judge took official notice of the administrative file.

**ISSUE:**

The issue is whether the claimant is available for work and whether the claimant was on an approved leave of absence.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on October 26, 2011, as a full-time customer service representative. She has three children who are fifteen, fourteen, and twelve years of age. In March 2020, the pandemic shut down the children's schools and the claimant did not have childcare. The fourteen-year-old child has asthma and the claimant asked for a leave of absence due to his health issues. The employer granted the request.

On March 23, 2020, the employer trained employees to work at home. The claimant agreed to be trained to telework and end her leave of absence. The employer's office closed. On March 24, 2020, the claimant asked for another leave of absence. She did not have daycare and her children were too loud for her to work from home. The claimant completed the leave documentation and the employer granted her request.

On June 24, 2020, three months later, the employer asked the claimant if she found daycare for her children. The claimant had not. The employer gave her one more week to find care. The

claimant did not find childcare. On July 6, 2020, the employer ended the claimant's employment. The employer told the claimant she could reapply when she had care. The claimant has childcare now that the children are back in school. She has not reapplied because she does not want to telework.

The claimant filed for unemployment insurance benefits with an effective date of March 15, 2020. Her weekly benefit amount was determined to be \$545.00. The claimant received benefits from March 15, 2020, to the week ending June 27, 2020. This is a total of \$8,161.00 in state unemployment insurance benefits after the separation from employment. She also received \$7,800.00 in Federal Pandemic Unemployment Compensation for the thirteen-week period ending June 27, 2020.

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

Iowa Admin. Code r. 871-24.23(8), (10), and (16) provide:

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

(8) Where availability for work is unduly limited because of not having made adequate arrangements for child care.

(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.

(16) Where availability for work is unduly limited because a claimant is not willing to work during the hours in which suitable work for the claimant is available.

The claimant has the burden of proof in establishing his ability and availability for work. *Davoren v. Iowa Employment Security Commission*, 277 N.W.2d 602 (Iowa 1979). When employees request and are granted time off, they are considered to be unavailable for work. A worker is considered to be unavailable for work when an employee limits working hours for a particular reason or to care for children. The claimant requested time off and the employer granted the request. The change was initiated by the claimant to care for her children. She continues to limit her hours. The claimant is considered to be unavailable for work and is not eligible to receive unemployment insurance benefits from March 15, 2020.

Even though the 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 claimant must apply for PUA, as noted in the instructions provided in the "Note to Claimant" below.

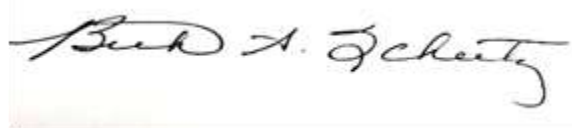
The issue of whether claimant has been overpaid unemployment insurance benefits and Federal Pandemic Unemployment Compensation is remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and decision.

**DECISION:**

The representative's July 2, 2020, decision (reference 01) is affirmed. The claimant is considered to be unavailable for work and is not eligible to receive unemployment insurance benefits from March 15, 2020

The issue of whether claimant has been overpaid unemployment insurance benefits and Federal Pandemic Unemployment Compensation is remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and decision.

*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 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>.



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Beth A. Scheetz  
Administrative Law Judge

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September 3, 2020  
Decision Dated and Mailed

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