

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

SHEILA K SMITH
Claimant

APPEAL NO: 20A-UI-06539-JE-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

CARE INITIATIVES
Employer

OC: 06/16/19
Claimant: Appellant (4)

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the June 16, 2020, reference 05, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on July 24, 2020. The claimant participated in the hearing. The employer did not provide a telephone number prior to the hearing and did not participate in the hearing.

ISSUE:

The issue is whether the claimant is able and available for work.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was hired as a full-time LPN at Care Initiatives on July 8, 2019, and is still employed there.

On April 18, 2020, the claimant was sent home from the care center because her brother-in-law tested positive for COVID-19 and the claimant was exposed. On April 19, 2020, the claimant tested positive for COVID-19. She was required to be off work 10-14 days but because she remained symptomatic, a member of her household tested positive for COVID-19, and she had pneumonia twice, the claimant was not released to return to work until June 22, 2020, when she was released to work four-hour shifts instead of her regular eight-hour shifts. She worked for a little over a week and then was off work until July 23, 2020, due to knee problems caused by COVID-19.

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 from the week ending April 25 through the week ending June 20, 2020 and from the week ending July 4 through July 18, 2020.

Iowa Code section 96.4(3) provides:

A 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 4 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.

The claimant was not able and available for work from the week ending April 25 through the week ending June 20, 2020, due to being exposed to COVID-19, having COVID-19 herself, and then contracting pneumonia twice. She was released to return to work June 22, 2020, and worked for approximately one week before being off work again due to knee problems caused by COVID-19. Consequently, she is not considered able and available for work from the week ending July 4 through the week ending July 18, 2020. Accordingly, the claimant is not considered able and available for work at this time and benefits must be denied.

Because the claimant received benefits when she was not able and available for work, she is overpaid benefits in the amount of \$3,372.00 for the seven weeks ending June 20, 2020, and \$1,443.00 for the three weeks ending July 18, 2020, for a total of \$4,815.00.

DECISION:

The June 16, 2020, reference 05, decision is modified in favor of the claimant. The claimant is not able to work and available for work effective the week ending April 25 through the week ending June 20 and again from the week ending July 4 through the week ending July 18, 2020. Benefits are allowed effective the week ending August 1, 2020. The claimant must report any wages earned.



Julie Elder
Administrative Law Judge

July 31, 2020 _____
Decision Dated and Mailed

je/sam

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>.