

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

DENISE L ELDRIDGE
Claimant

AADG INC
Employer

APPEAL 21A-UI-04214-LJ-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 11/08/20
Claimant: Appellant (4)

Iowa Code § 96.19(38) – Total, Partial, and Temporary Unemployment
Iowa Code § 96.4(3) – Ability to and Availability for Work
Iowa Code 96.7(2)a(2) – Employer Contributions and Reimbursements
Iowa Admin. Code r. 871-24.23(26) – Employment at Same Hours and Wages

STATEMENT OF THE CASE:

On January 29, 2021, the claimant, Denise L. Eldridge, filed an appeal from the January 27, 2021 (reference 01) unemployment insurance decision that denied benefits based upon a determination that claimant was ineligible for benefits as she was still employed at the same hours and wages. The parties were properly notified of the hearing. A telephonic hearing was held at 1:00 p.m. on Tuesday, April 6, 2021. The claimant, Denise L. Eldridge, participated. The employer, AADG, Inc., did not register a telephone number at which to be reached and did not participate in the hearing. No exhibits were offered or admitted into the record. The administrative law judge took official notice of the administrative record.

ISSUES:

Was the claimant totally or partially unemployed effective November 8, 2020?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began her full-time employment with employer AADG, Inc. in September 20, 2016. Claimant remains employed with the employer as an order processor.

The employer has implemented policies to keep its workforce safe from COVID-19. If an employee tests positive for COVID-19 or is exposed to COVID-19, she must take two weeks off work to self-quarantine. An employee is not paid for any self-quarantine as a result of an exposure to COVID-19. An employee is paid for the second week only of quarantine as a result of testing positive for COVID-19.

On or about November 7, 2020, claimant's adult daughter tested positive for COVID-19. As claimant had been around her daughter, she reported this exposure to the employer. The employer, as expected, instructed her to quarantine for two weeks. Claimant filed for benefits for those two weeks: the week ending November 14, 2020; and the week ending November 21, 2020. Claimant did not work at all the week ending November 14. She reported zero dollars in

wages. Claimant worked one day the week ending November 21. She reported \$195.00 in wages.

On Sunday, November 22, claimant herself tested positive for COVID-19. The only symptom she experienced was loss of taste. Claimant was out of work and in quarantine for two weeks, per the employer's instructions. She filed for benefits for those two weeks: the week ending November 28, 2020; and the week ending December 5, 2020. Claimant did not work at all the week ending November 28, but she received two days of holiday pay. She reported \$350.00 in wages. Claimant did not work at all the week ending December 5, but she received short-term disability compensation from the employer. She reported over \$999.00 in wages.

Claimant returned to work effective December 7, 2020, and has been working ever since. She kept her claim open for the following three weeks, as she was not certain what was happening and did not want to risk her claim closing and losing out on benefits. However, claimant reported at least \$715.00 in wages for each of these weeks, which is well in excess of her weekly benefit amount plus fifteen dollars. After the week ending December 26, 2020, claimant stopped filing for benefits.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant is eligible for benefits for the two-week period ending November 21, 2020. Claimant is ineligible for regular unemployment insurance benefits for the two weeks ending December 5, 2020, but she may be eligible for federal Pandemic Unemployment Assistance. After the week ending December 5, 2020, claimant is ineligible for benefits.

Iowa Code § 96.19(38) provides:

"Total and partial unemployment".

a. An individual shall be deemed "totally unemployed" in any week with respect to which no wages are payable to the individual and during which the individual performs no services.

b. An individual shall be deemed partially unemployed in any week in which either of the following apply:

(1) While employed at the individual's then regular job, the individual works less than the regular full-time week and in which the individual earns less than the individual's weekly benefit amount plus fifteen dollars.

(2) The individual, having been separated from the individual's regular job, earns at odd jobs less than the individual's weekly benefit amount plus fifteen dollars.

c. An individual shall be deemed temporarily unemployed if for a period, verified by the department, not to exceed four consecutive weeks, the individual is unemployed due to a plant shutdown, vacation, inventory, lack of work or emergency from the individual's regular job or trade in which the individual worked full-time and will again work full-time, if the individual's employment, although temporarily suspended, has not been terminated.

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 was on a mandatory leave of absence during the weeks of November 8-14 and November 15-21. Claimant did not request a leave of absence during these weeks; she would have preferred to continue working. However, due to the pandemic and the risk of exposing coworkers to COVID-19, the employer required claimant to quarantine. Because it was the employer's choice that claimant was placed on a leave of absence and not claimant's choice, the administrative law judge finds that claimant was not on a voluntary leave of absence. Claimant was otherwise able to and available for work. Benefits are allowed for the two-week period ending November 21, 2020, provided she is otherwise eligible.

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.

Claimant is also seeking benefits for November 22-28 and November 29-December 5, the weeks during which she was required to be off work due to her own COVID-19 diagnosis. During that period, claimant was ill with a highly contagious disease. She was not able to work, and therefore she was not eligible for regular unemployment insurance benefits.

Iowa Admin. Code r. 871-24.23(23) provides:

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

(23) The claimant's availability for other work is unduly limited because such claimant is working to such a degree that removes the claimant from the labor market.

Effective December 6, 2020, claimant had returned to full-time employment. She was working sufficient hours to be removed from the labor market and was not available for work. Therefore, she was not eligible for benefits.

DECISION:

Regular Unemployment Insurance Benefits Under State Law

The January 27, 2021 (reference 01) unemployment insurance decision is modified in favor of claimant/appellant.

Claimant was able to and available for work for the two-week period ending November 21, 2020. Benefits are allowed for those two weeks, provided she is otherwise eligible.

Claimant was not able to work due to personal illness for the two-week period ending December 5, 2020. Benefits are denied for those two weeks.

Claimant was working sufficient hours to be removed from the labor market and was not available for work effective December 6, 2020. Benefits are denied from that point forward, until such time as claimant presents to the Department again and is unemployed.

Pandemic Unemployment Assistance (PUA) Under the Federal CARES Act

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 CARES Act. 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. This decision does not address whether the claimant is eligible for PUA. For a decision on such eligibility, the claimant must self-certify for PUA, as noted in the instructions provided in the "Note to Claimant" below.



Elizabeth A. Johnson
Administrative Law Judge
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515)478-3528

April 9, 2021
Decision Dated and Mailed

lj/scn

Note to Claimant: This decision determines you are not eligible for regular unemployment insurance benefits effective November 22, 2020. 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 experienced unemployment 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>.