

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

**BERTHA M MOORE**  
Claimant

**APPEAL NO. 20R-UI-11460-B2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**ADVANCED HOME HEALTH CARE**  
Employer

**OC: 04/19/20**  
**Claimant: Appellant (1)**

Iowa Admin. Code ch. 871 r. 24.23(10) – Leave of Absence  
Iowa Code § 96.4-3 – Able and Available

**STATEMENT OF THE CASE:**

Claimant filed an appeal from a decision of a representative dated August 17, 2020 reference 01, which held claimant not able and available for work. After due notice, a hearing was scheduled for and held on November 10, 2020. Claimant participated personally. Employer participated by Chelsey Jailr. Claimant's Exhibit A was admitted into evidence.

**ISSUE:**

Whether claimant is able and available for work?

Whether claimant is 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: Claimant found out that she had Afib at or around the time of the onset of Covid. Claimant was concerned for herself, concerned for how the medications for Afib would affect her and concerned for Covid. Claimant asked for and was granted a FMLA leave on or around April 8, 2020.

Employer asked claimant to return to work on June 2, 2020, but did not offer the same hours claimant had been working. Claimant declined to return. Claimant did not contact employer at any time and request to return to work. Employer requested claimant return to work on August 3, 2020 and claimant did return to work.

Claimant stated that she was off work the entire period as she did not know how she would adjust to the Afib medications she was taking.

**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".

The claimant has not established the ability to work for the period between April 8, 2020 and August 3, 2020. Benefits are withheld for that 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. **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 August 17, 2020, reference 01 is affirmed. Claimant is not eligible to receive unemployment insurance benefits between the dates of April 8, 2020 and August 3, 2020.



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Blair A. Bennett  
Administrative Law Judge

November 18, 2020  
Decision Dated and Mailed

bab/mh