

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

SARAH G DILLEY
Claimant

**THOMAS L CARDELLA & ASSOCIATES
INC**
Employer

APPEAL 22A-UI-00843-AD-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 08/29/21
Claimant: Appellant (3R)**

Iowa Code § 96.4(3) – Ability to and Availability for Work

STATEMENT OF THE CASE:

On December 9, 2021, Sarah Dilley (claimant/appellant) filed an appeal from the decision dated December 7, 2021 (reference 02) that denied unemployment insurance benefits effective November 14, 2021 based on a finding claimant was unable to perform work due to illness.

A telephone hearing was held on January 31, 2022. The parties were properly notified of the hearing. The claimant participated personally. Thomas L Cardella & Associates Inc (employer/respondent) did not participate. Claimant's Exhibits 1 and 2 were admitted.

ISSUES:

Is the claimant able to and available for work?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds:

Claimant's first day of employment was March 4, 2019. Claimant was hired as a tele-sales representative. Claimant currently works as a full-time trainer. She began in that position in October 2021.

Claimant filed a claim for benefits each week from the benefit week ending September 4, 2021 through the benefit week ending October 2, 2021. She again filed from the benefit week ending November 20, 2021 through the benefit week ending January 15, 2022.

Claimant's unemployment in the benefit weeks ending November 20, November 27, and December 4, 2021 were due to illness caused by COVID-19. Claimant's unemployment in the other weeks filed was due to a lack of childcare caused by the pandemic.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the decision dated December 7, 2021 (reference 02) that denied unemployment insurance benefits effective November 14, 2021 based on a finding claimant was unable to perform work due to illness is MODIFIED in favor of respondent. Claimant is ineligible for benefits in each week filed.

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".

Claimant's unemployment in the weeks filed was due to her being either unable to work or unavailable for work. She is therefore ineligible for benefits in those weeks.

While this decision denies regular, state benefits, the evidence indicates claimant may be eligible for federal Pandemic Unemployment Assistance (PUA). Further information on PUA, including how to apply, is set forth below.

DECISION:

The decision dated December 7, 2021 (reference 02) that denied unemployment insurance benefits effective November 14, 2021 based on a finding claimant was unable to perform work due to illness is MODIFIED in favor of respondent. Claimant is ineligible for benefits in each week filed.

REMAND:

This matter is remanded to the Department for issuance of a decision regarding whether claimant has been overpaid benefits.



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

February 17, 2022
Decision Dated and Mailed

abd/abd

Note to Claimant:

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 and were unemployed between February 2, 2020, and June 12, 2021 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.** To apply for PUA go to <https://www.iowaworkforcedevelopment.gov/unemployment-insurance-appeals> and click the link in the last paragraph under "WHAT TO EXPECT FROM THE HEARING." **The authorization number is the pin number you used for the hearing.**

If this decision becomes final and you are not eligible for PUA, you may have an overpayment of benefits.