

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

BEVERLY COUCH
Claimant

FBL FINANCIAL GROUP INC
Employer

APPEAL 21A-UI-02111-S2-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 09/20/20
Claimant: Appellant (1)

Iowa Code § 96.4(3) – Ability to and Availability for Work
Iowa Admin. Code r. 871-24.23(10) – Able & Available – Availability Disqualifications

STATEMENT OF THE CASE:

On December 22, 2020, the claimant filed an appeal from the December 18, 2020, (reference 01) unemployment insurance decision that denied benefits based upon a finding that claimant was on an approved leave of absence. The parties were properly notified about the hearing. A telephone hearing was held on March 1, 2021. Claimant Beverly Couch participated. Employer FBL Financial Group, Inc. participated through Daniel Peacock and Barbara Foertsch. Claimant's Exhibits A-C were admitted.

ISSUES:

Is the claimant able to and available for work?
Is the claimant on a voluntary leave of absence?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began working for employer on February 1, 2019. Claimant worked for employer as a full-time underwriting assistant. Her employment ended on October 28, 2020, when she was discharged.

In mid-March 2020, claimant began working remotely. On July 1, 2020, employer notified claimant her position was being eliminated but she was offered a customer service representative position which she accepted. The position required claimant to return to work in the office. Since claimant had cataract surgery scheduled for July 2020, she continued to work remotely until July 30, 2020.

On July 30, 2020, claimant submitted a request for accommodation to remain working at home due to her doctor's recommendation that she had underlying health conditions that placed her at high risk if she contracted COVID-19. The request was denied as claimant's new position required her to work from the office. Claimant requested and was granted FMLA leave from July 30, 2020 through October 22, 2020. Claimant stated she would return to work if employer required every employee to wear a face mask. Employer informed claimant it would have the

employees near her wear masks and she would be at a cubicle that did not share walls with other employees. Claimant refused the offer. On October 28, 2020, employer terminated claimant's employment when her leave expired and she would not return to work without a mask mandate for all employees.

Employer had continuing work available for claimant, if she did not have concerns regarding her underlying health conditions.

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 effective September 20, 2020.

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.

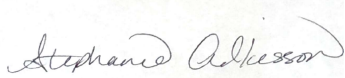
Here, claimant was on a leave of absence due to her underlying health condition. Claimant was advised by her physician not to return to work due to underlying medical conditions. She has not established she is able to and available for work, even under the United States Department of Labor's guidance to flexibly interpret this requirement. See Unemployment Insurance Program Letter No. 10-20. Therefore, claimant is not eligible for regular, state-funded unemployment insurance benefits from the effective date of the claim.

Even though claimant is not eligible for regular unemployment insurance benefits under state law, the claimant 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.

DECISION:

The December 18, 2020, (reference 01) unemployment insurance decision is affirmed. The claimant is not available for work effective September 20, 2020, and regular, state-funded unemployment insurance benefits are denied. Claimant may be eligible for Pandemic Unemployment Assistance.



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

March 8, 2021
Decision Dated and Mailed

sa/kmj

NOTE TO CLAIMANT:

- This decision determines you are not eligible for regular unemployment insurance benefits under state law. 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.
- If you do not qualify for regular unemployment insurance benefits under state law and are currently unemployed for reasons related to COVID-19, you may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility under the program.** For more information on how to apply for PUA, go to <https://www.iowaworkforcedevelopment.gov/pua-information>. **If you do not apply for and are not approved for PUA, you may be required to repay the benefits you've received so far.**