

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

NIKI J MEADOR

Claimant

APPEAL NO: 14A-UI-02965-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

FULL CIRCLE SERVICES INC

Employer

OC: 02/02/14

Claimant: Appellant (1)

Iowa Code § 96.4(3) – Able to and Available for Work
Iowa Admin. Code r. 871-26.14(7)b, c – Request to Reopen Hearing

STATEMENT OF THE CASE:

The claimant appealed a representative's March 5, 2014 determination (reference 03) that held her ineligible to receive benefits as of February 2, 2014, because she was unable to work as the result of an injury. Hearing notices were mailed to both parties on March 20, 2014. The hearing notice informed the parties a hearing would be held on April 9 at 11:30 a.m. The hearing notice also gave the phone number to call the Appeals Bureau to provide a phone number to call the party before the scheduled hearing. At the scheduled hearing, the claimant had not provided her telephone number as the hearing notice instructed her to do. Matt Archibald appeared on the employer's behalf.

After the hearing had been closed and the employer's witness was excused, the claimant called the Appeals Bureau. She requested that the hearing be reopened. Based on the administrative record, the claimant's request to reopen the hearing, and the law, the administrative law judge denies the claimant's request to reopen the hearing and finds her ineligible to receive benefits as of February 2, 2014.

ISSUES:

Is there good cause to reopen the hearing?

Is the claimant able to and available for work as of February 2, 2014?

FINDINGS OF FACT:

The claimant established a claim for benefits during the week of February 2, 2014. She has filed claims for the weeks ending February 8 through April 5, 2014.

In early March 2014, the claimant told a claims specialist she had a brain injury and surgery on February 25. She was scheduled to return to her doctor on March 14, 2014. When the claimant talked to the claims specialist she indicated she was unable to work and had a list of restrictions. In the claimant's appeal letter she indicates she was unable to work February 25 through March 14, but was able to and available for work after March 14, 2014.

The claimant received the hearing notice, she but did not call the number listed on the hearing notice. When she did not follow the hearing instructions, she did not provide her telephone number to the Appeals Bureau and was not called for the hearing.

REASONING AND CONCLUSIONS OF LAW:

If a party responds to a hearing notice after the record has been closed and the party who participated at the hearing is no longer on the line, the administrative law judge can only ask why the party responded late to the hearing notice. If the party establishes good cause for responding late, the hearing shall be reopened. The rule specifically states that failure to read or follow the instructions on the hearing notice does not constitute good cause to reopen the hearing. Iowa Admin. Code r. 871-26.14(7)b, c. The claimant failed to follow the instructions on the hearing notice by calling the correct phone number. Based on her failure to read or follow the hearing instructions, she did not establish good cause to reopen the hearing. Her request to reopen the hearing is denied.

Each week a claimant files a claim for benefits, she must be able to and available for work. Iowa Code § 96.4(3). The claimant acknowledges that as a result of her surgery she was not able to or available for work February 25 through March 14, 2014. Since the claimant had been injured and needed surgery, a preponderance of the evidence also indicates she was unable to and unavailable for work from February 2 through February 25, 2014.

Until the claimant provides a doctor's release indicating what day she is able to and available for work as of March 14 or later, she is not eligible to receive benefits. The doctor's statement must be provided to her local Workforce office. If her doctor indicates she has any work restrictions, the claimant must also provide the type of work she is capable of performing to determine her availability for work.

DECISION:

The claimant's request to reopen the hearing is denied. The representative's March 5, 2014 determination (reference 03) is affirmed. The claimant is not eligible to receive benefits as of February 2, 2014, because of an injury and then surgery she had on February 25, 2014.

Before the claimant can be considered eligible to receive benefits, she must provide a doctor's note to her local Workforce office indicating what day her doctor released her to work and what if any restrictions she has. If the claimant has restrictions, she must establish what meaningful work she is capable of doing in which she has experience performing. Until the claimant provides this information, she is not eligible to receive benefits.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/css