

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

CRYSTAL D HENDERSON
Claimant

APPEAL 20A-UI-15675-SC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

THE UNIVERSITY OF IOWA
Employer

OC: 07/05/20
Claimant: Appellant (1)

Iowa Code § 96.4(3) – Ability to and Availability for Work
Iowa Admin. Code r. 871-24.22 – Able & Available - Benefits Eligibility Conditions

STATEMENT OF THE CASE:

On November 23, 2020, Crystal D. Henderson (claimant) filed an appeal from the November 18, 2020, reference 03, unemployment insurance decision that denied benefits for the week ending July 25, 2020, based upon the determination she was not able to and available for work. After due notice was issued, a telephone hearing was held on January 27, 2021, and consolidated with the hearing for appeal 20A-UI-15673-SC-T. The claimant participated. The University of Iowa (employer) participated through Jessica Wade, HR Business Analyst. No exhibits were offered into the record.

ISSUE:

Was the claimant able to and available for work during the week ending July 25, 2020?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant has been employed with the employer since January 9, 2017. She filed her claim for unemployment insurance benefits effective July 5, 2020, after testing positive for the coronavirus on July 7. The claimant's doctor said she could not work until she was symptom free for 72 hours. The claimant was unable to return to work until July 27. The employer paid the claimant for 40 hours of sick leave for the week ending July 25.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant was not able to and available for work during the week ending July 25, 2020. Benefits are denied.

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. 871-24.22(1)a provides:

Benefits eligibility conditions. For an individual to be eligible to receive benefits the department must find that the individual is able to work, available for work, and earnestly and actively seeking work. The individual bears the burden of establishing that the individual is able to work, available for work, and earnestly and actively seeking work.

(1) Able to work. An individual must be physically and mentally able to work in some gainful employment, not necessarily in the individual's customary occupation, but which is engaged in by others as a means of livelihood.

a. Illness, injury or pregnancy. Each case is decided upon an individual basis, recognizing that various work opportunities present different physical requirements. A statement from a medical practitioner is considered prima facie evidence of the physical ability of the individual to perform the work required. A pregnant individual must meet the same criteria for determining ableness as do all other individuals.

Iowa Admin. Code r. 871-24.23 provides, in relevant part:

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.

...

(35) Where the claimant is not able to work and is under the care of a medical practitioner and has not been released as being able to work.

An individual claiming benefits has the burden to prove that she is be able to work, available for work, and earnestly and actively seeking work. Iowa Admin. Code r. 871-24.22. The claimant was unable to work because she was under the care of her doctor and ill. Accordingly, she is not eligible for unemployment insurance benefits.

DECISION:

The November 18, 2020, reference 03, unemployment insurance decision is affirmed. The claimant was not able to work and available for work during the week ending July 25, 2020. Benefits are denied.

A handwritten signature in dark ink, appearing to read "Stephanie R. Callahan", with a long horizontal flourish extending to the right.

Stephanie R. Callahan
Administrative Law Judge

February 11, 2021
Decision Dated and Mailed

src/kmj