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Mary Ann Spicer

CONCURRING OPINION OF JOHN A. PENO:

I agree with my fellow board members that the administrative law judge's decision should be affirmed; however, I would comment that I do not agree that the claimant is not able and available for work until she can return to work without restrictions. The claimant only needs to prove that she is "... physically able and available for work, not necessarily in her customary occupation, but in some reasonably suitable, comparable, gainful full-time endeavor that is generally available in the labor market..." See, 871 IAC 24.22(1)" b."

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John A. Peno