

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**TRELLINI V DAVIS-WILLIAMS**  
Claimant

**LIL SCHOLARS PRESCHOOL LLC**  
Employer

**APPEAL 17A-UI-05296-LJ-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 02/26/17**  
**Claimant: Appellant (4)**

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Iowa Code § 96.4(3) – Ability to and Availability for Work  
Iowa Admin. Code r. 871-24.22(2) – Able & Available - Benefits Eligibility Conditions

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the May 19, 2017 (reference 07, amending reference 05) unemployment insurance decision that denied benefits based upon a determination that claimant was not available for work because she was out of town for personal reasons. The parties were properly notified of the hearing. A telephone hearing was held on June 5, 2017. The claimant, Trellini V. Davis-Williams, participated. The employer, Li'l Scholars Preschool, L.L.C., participated through Marci Johnston, Owner and Director.

**ISSUE:**

Is the claimant able to work and available for work?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant last worked for Li'l Scholars Preschool, L.L.C. on November 30, 2016. In late January 2017, claimant left Iowa to go to Miami, Florida, and care for her mother. Claimant testified that her mother was suffering from leukemia and was unable to do anything for herself. Claimant bathed her mother, helped her mother eat, dealt with her mother's belongings, and worked to get her mother's affairs in order. Claimant testified that she was searching for jobs in the Des Moines area while she was in Florida. Claimant returned to Des Moines for approximately one week in late April 2017, as it looked like her mother's health was improving. However, she went back to Florida the following week because her mother's health deteriorated. Subsequently, claimant's mother died. Claimant returned to Iowa sometime during the third week in May 2017, following her mother's funeral. She is now living in Iowa full-time and is searching for employment.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes claimant was not available for work beginning the week ending March 4, 2017, and ending April 22, 2017. She was able and available for work for the one-week period ending April 29, 2017. She was not able and available for work beginning the week ending May 6, 2017, and ending May 20, 2017.

Iowa Code § 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(2) 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.

(2) Available for work. The availability requirement is satisfied when an individual is willing, able, and ready to accept suitable work which the individual does not have good cause to refuse, that is, the individual is genuinely attached to the labor market. Since, under unemployment insurance laws, it is the availability of an individual that is required to be tested, the labor market must be described in terms of the individual. A labor market for an individual means a market for the type of service which the individual offers in the geographical area in which the individual offers the service. Market in that sense does not mean that job vacancies must exist; the purpose of unemployment insurance is to compensate for lack of job vacancies. It means only that the type of services which an individual is offering is generally performed in the geographical area in which the individual is offering the services.

Iowa Admin. Code r. 871-24.23(25) provides:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(25) If the claimant is out of town for personal reasons for the major portion of the workweek and is not in the labor market.

Claimant testified that she was out of state caring for her mother who was suffering from leukemia. Claimant was providing daily care for her mother and she was also getting her mother's affairs in order. Even if claimant was looking for jobs in the Des Moines area at that time and attempting to stay connected to the labor market, her own testimony indicates she could not have reported to work at that time. Therefore, the administrative law judge finds claimant was not available for work beginning the week ending March 4, 2017, and ending the week ending April 22, 2017. Claimant returned to Iowa in late April 2017. Claimant testified that her mother's health had improved, and she believed that she would not be returning to Florida. The administrative record shows claimant applied for jobs that week and met the other requirements. Therefore, the administrative law judge finds claimant was available for work for

the one-week period ending April 29, 2017. The administrative law judge offers claimant deep sympathy and sincere condolences to claimant following the death of her mother.

**DECISION:**

The May 19, 2017 (reference 07, amending reference 05) unemployment insurance decision is modified in favor of the claimant/appellant. The claimant is not able to work and available for work from the week ending March 4, 2017, through the week ending April 22, 2017. Benefits are withheld. The claimant is able to work and available for work for the one-week period ending April 29, 2017.

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Elizabeth A. Johnson  
Administrative Law Judge

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Decision Dated and Mailed

lj/scn