

**IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI**

**KRISIN M MONTES DE OCA
1994 CHASE AVE
WEBSTER CITY IA 50595**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**Appeal Number: 05A-UI-08694-DWT
OC: 04/03/05 R: 01
Claimant: Appellant (4)**

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.4-3 – Ability to and Availability for Work

STATEMENT OF THE CASE:

Kristin M. Montes DeOca (claimant) appealed a representative's August 15, 2005 decision (reference 02) that concluded she was not eligible to receive unemployment insurance benefits as of August 7, 2005, because she was ill and unable to work. After a hearing notice was mailed to the claimant's last-known address of record, a telephone hearing was scheduled on September 9, 2005. Based on the administrative record and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Is the claimant able to and available for work as of August 7, 2005?

FINDINGS OF FACT:

The claimant reopened her claim for benefits during the week of August 7, 2005. As of August 7, the claimant was recovering from surgery and had not yet been released to work. On August 17, 2005, the claimant's physician released the claimant to return to full work as of August 22, 2005.

REASONING AND CONCLUSIONS OF LAW:

Each week a claimant files a claim for benefits, she must be able to and available for work. Iowa Code §96.4-3. After the claimant's surgery, her doctor released the claimant to work without any restrictions on August 22, 2005. As of August 21, 2005, the claimant is eligible to receive unemployment insurance benefits.

DECISION:

The representative's August 15, 2005 decision (reference 02) is modified in the claimant's favor. From August 7 through August 20, the claimant is not eligible to receive benefits because she was recovering from surgery and her physician had not released her to work. Since the claimant's physician released her to work as of August 22, she is eligible to receive unemployment insurance benefits as of August 21, 2005, provided she meets all other eligibility requirements.

dlw/kjw