

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ELENA TELLEZ DE FERNANDEZ**  
Claimant

**APPEAL NO: 16A-UI-10917-S1-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**SWIFT PORK COMPANY**  
Employer

**OC: 09/11/16**  
**Claimant: Appellant (1)**

Section 96.4-3 – Able and Available

**STATEMENT OF THE CASE:**

Elena Tellez de Fernandez (claimant) appealed a representative's October 3, 2016, decision (reference 02) that concluded she was not eligible to receive unemployment insurance benefits as of September 11, 2016, because she was not available to work at Swift Pork Company (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for October 24, 2016. The claimant participated personally through Carlos Morales, Interpreter. The employer did not provide a telephone number where it could be reached and therefore, did not participate in the hearing.

**ISSUE:**

The issue is whether the claimant is able and available for work.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant worked for the employer from December 2, 2006, to May 2016. In May 2016, the claimant's husband had a stroke. The claimant is unable to work because she is caring for her husband. She applied for unemployment insurance benefits with an effective date of September 11, 2016. The claimant plans to return to work when she no longer has to care for her husband.

**REASONING AND CONCLUSIONS OF LAW:**

The issue is whether the claimant is able and available for work. For the following reasons the administrative law judge concludes she was not.

Iowa Admin. Code r. 871-24.23(16) provides:

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

(16) Where availability for work is unduly limited because a claimant is not willing to work during the hours in which suitable work for the claimant is available.

When a person limits her work hours to the extent that she will not work at all, she has made herself unavailable for work. The claimant is taking care of her husband and is not accepting work. The claimant is disqualified from receiving unemployment insurance benefits from September 11, 2016, due to her unavailability for work.

**DECISION:**

The representative's October 3, 2016, decision (reference 02) is affirmed. The claimant is disqualified from receiving unemployment insurance benefits because she is not available for work with the employer.

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Beth A. Scheetz  
Administrative Law Judge

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Decision Dated and Mailed

bas/pjs