

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

COLLEEN A MARSHALL
Claimant

APPEAL NO: 11A-UI-11746-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 01/30/11
Claimant: Appellant (2)**

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

The claimant appealed a department decision dated August 30, 2011, reference 04, that held she is not eligible for benefits effective August 14, 2011, due to an availability issue. A telephone hearing was held on September 29, 2011. The claimant participated.

ISSUE:

Whether the claimant is able and available for work.

FINDINGS OF FACT:

The administrative law judge having heard the testimony of the witness, and having considered the evidence in the record, finds: The claimant filed a most recent unemployment claim effective May 22, 2011. The department coded her work search as group 6 that allows her to search for work by use of resume. Claimant left town for a few days to visit her daughter who was giving birth to a grandchild. Unbeknownst to her, the department mailed a notice for claimant to report to her local office for a meeting (RES), re-employment services, on August 18. She did not receive the notice until after the meeting date.

Claimant called her local office on the following day and re-scheduled the meeting. She attended the meeting a few days later and satisfied the department requirement.

REASONING AND CONCLUSIONS OF LAW:

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".

The administrative law judge concludes that no availability disqualification should be imposed on claimant for missing the department meeting effective August 14, 2011.

Claimant should not be disqualified from receiving benefits for a scheduled meeting she knew nothing about. She did not receive notice of the meeting until after the fact, and she complied with the meeting requirement within a few days after she received notice.

Claimant should not be disqualified for being out of town for a short period of time because she was authorized to search for work by use of resume.

DECISION:

The department decision dated August 30, 2011, reference 04, is reversed. The claimant is not disqualified for any availability issue effective August 14, 2011.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/pjs