

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**ANDREW G DORLIAE**  
Claimant

**APPEAL 18A-UI-07265-CL-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE DEVELOPMENT  
DEPARTMENT**

**OC: 05/06/18  
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 June 27, 2018, (reference 04), unemployment insurance decision that denied benefits based upon claimant's availability for work. After due notice was issued, a telephone conference hearing was scheduled to be held on July 23, 2018. Claimant participated. Claimant's Exhibit A was received.

**ISSUE:**

Is the claimant able to work and available for work effective May 6, 2018?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant is attending classes at DePaul University in Chicago, Illinois to become a tax professional. Claimant resides in Cedar Rapids, Iowa.

From March 24, 2018, through June 8, 2018, claimant took one online class per week for four credit hours. He was only required to travel to Chicago one time during that time period for a status conference.

From June 11, 2018, through July 15, 2018, claimant took class on Monday and Wednesday evenings from 6:00 p.m. until 9:15 p.m. The class equals four credit hours. The class was held on campus. Therefore, claimant was required to make a ten-hour round trip commute for each class. Claimant stayed overnight in Chicago the night before class when he had enough money for a hotel room.

From June 15, 2018, through June 23, 2018, claimant took class on Fridays and Saturdays from 9:00 a.m. until 5:30 p.m. The class equals four credit hours and was held on campus.

From July 16, 2018, through August 19, 2018, claimant takes class on Tuesday and Thursday evenings from 6:00 p.m. until 9:15 p.m. The class equals four credit hours. The class is held on

campus. Therefore, claimant is required to make a ten-hour round trip commute for each class. Claimant stays overnight in Chicago the night before class when he has enough money for a hotel room.

Claimant has a right arm injury, but is able to do office work. Claimant has work experience in human services and accounting and has been looking for those types of work.

### **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes that the claimant is considered able to and available for work from May 6 through June 11, 2018. Claimant is not able to and available for work effective June 11, 2018.

Iowa Code section 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(1)a 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.

(1) Able to work. An individual must be physically and mentally able to work in some gainful employment, not necessarily in the individual's customary occupation, but which is engaged in by others as a means of livelihood.

a. Illness, injury or pregnancy. Each case is decided upon an individual basis, recognizing that various work opportunities present different physical requirements. A statement from a medical practitioner is considered prima facie evidence of the physical ability of the individual to perform the work required. A pregnant individual must meet the same criteria for determining ableness as do all other individuals.

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.

From May 6, 2018, through June 11, 2018, claimant was able to work in gainful employment in the human services or accounting fields. He was taking only one online class and was present in the labor market during the majority of the workweek.

From June 11, 2018, going forward, claimant is either traveling to Chicago or in Chicago for the majority of the workweek for personal reasons. Therefore, he has not established he is available for work.

**DECISION:**

The June 27, 2018, (reference 04) decision is modified in favor of appellant. The claimant is able to work and available for work from May 6, 2018, through June 11, 2018. Benefits are allowed during that time period, provided claimant is otherwise eligible. Claimant is not available for work effective June 11, 2018. Benefits are denied after that date.

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Decision Dated and Mailed

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