

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**MICHAEL PFISTER**  
Claimant

**APPEAL 19A-UI-06236-DG-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 01/27/19  
Claimant: Appellant (2)**

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Iowa Code § 96.4(3) – Ability to and Availability for Work

**STATEMENT OF THE CASE:**

Claimant filed an appeal from the July 26, 2019, (reference 02) unemployment insurance decision that denied benefits for the one week period ending July 6, 2019. After due notice was issued, a hearing was scheduled to be held on August 29, 2019. Because the issue appealed was resolved administratively prior to the hearing in the appellant's favor (see the reference 06 unemployment insurance decision), no testimony was necessary and no hearing was held.

**ISSUE:**

Should the unemployment insurance decision be affirmed?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The decision appealed has been amended in favor of the appellant by the reference 06 unemployment insurance decision.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the unemployment insurance decision should be reversed.

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(35) provides:

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

**(35)** Where the claimant is not able to work and is under the care of a medical practitioner and has not been released as being able to work.

Since the decision appealed has been amended in favor of the appellant, the original unemployment insurance decision bearing reference 02 is reversed.

## **DECISION:**

The July 26, 2019, (reference 02) unemployment insurance decision is reversed. Benefits are allowed.

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Duane L. Golden  
Administrative Law Judge

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Decision Dated and Mailed

dlg/scn