

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**IVANNA DE COSS MORALES**  
Claimant

**WELLS FARGO BANK NA**  
Employer

**APPEAL 21A-UI-11904-AW-T**  
**ADMINISTRATIVE LAW JUDGE**  
**DECISION**

**OC: 03/07/21**  
**Claimant: Appellant (4R)**

Iowa Code § 96.4(3) – Ability to and Availability for Work  
Iowa Admin. Code r. 871-24.22 – Able & Available – Benefits Eligibility Conditions

**STATEMENT OF THE CASE:**

Claimant filed an appeal from the April 26, 2021 (reference 01) unemployment insurance decision that denied benefits. The parties were properly notified of the hearing. A telephone hearing was held on July 16, 2021 at 4:00 p.m. Claimant participated. Employer participated through Jackie Boudreaux, Hearing Representative, and Michael Franco, Wells Fargo Consumer Lending Contact Center Manager. No exhibits were admitted.

**ISSUES:**

Whether claimant is able to and available for work.  
Whether claimant is on an approved leave of absence.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began her employment with Wells Fargo Bank on July 13, 2016. Claimant is currently employed as a full-time Inbound Sales Specialist. Claimant requires a work permit to lawfully work in the United States. Claimant's work permit expired February 19, 2021. Claimant received her renewed work authorization on April 1, 2021. The authorization stated that it was effective March 19, 2021. Claimant had no other barriers to employment since filing her initial claim for unemployment insurance benefits effective March 7, 2021.

Wells Fargo Bank terminated claimant's employment effective March 19, 2021 and rehired claimant effective April 20, 2021. The issue of separation from employment has not been the subject of an initial fact-finding interview and decision.

## REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes:

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(2) provides:

Benefit 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.

(2) Available for work. The availability requirement is satisfied when an individual is willing, able, and ready to accept suitable work which the individual does not have good cause to refuse, that is, the individual is genuinely attached to the labor market. Since, under unemployment insurance laws, it is the availability of an individual that is required to be tested, the labor market must be described in terms of the individual. A labor market for an individual means a market for the type of service which the individual offers in the geographical area in which the individual offers the service. Market in that sense does not mean that job vacancies must exist; the purpose of unemployment insurance is to compensate for lack of job vacancies. It means only that the type of services which an individual is offering is generally performed in the geographical area in which the individual is offering the services.

*o. Lawfully authorized to work.* An individual who is not lawfully authorized to work within the United States will be considered not available for work.

An individual claiming benefits has the burden of proof that she is be able to work, available for work, and earnestly and actively seeking work. Iowa Admin. Code r. 871-24.22.

Claimant was not lawfully authorized to work within the United States from March 7, 2021 until March 17, 2021 and did not receive her renewed work authorization until April 1, 2021. Claimant was not available for work until she could establish that she was lawfully authorized to work in the United States, which she was unable to do until she received the written authorization on April 1, 2021. Claimant has not established that she was available for work from March 7, 2021 through March 31, 2021. Accordingly, benefits are denied from March 7, 2021 through April 3, 2021.

Claimant had no barriers to employment and, thus, was available for work effective April 1, 2021. Accordingly, benefits are allowed effective April 4, 2021, provided claimant is otherwise eligible.

**DECISION:**

The April 26, 2021 (reference 01) unemployment insurance decision is modified in favor of appellant. Claimant was not available for work from March 7, 2021 through March 31, 2021; benefits are denied from March 7, 2021 through April 3, 2021. Claimant was able to and available for work effective April 1, 2021; benefits are allowed effective April 4, 2021, provided claimant is otherwise eligible.

**REMAND:**

The issue of separation is remanded to the Benefits Bureau of Iowa Workforce Development for an initial fact-finding interview and decision.



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July 21, 2021  
Decision Dated and Mailed

acw/lj