

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

MARTA M MAGANA
Claimant

TYSON FRESH MEATS INC
Employer

APPEAL 17A-UI-07873-H2T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 05/21/17
Claimant: Appellant (2)

Iowa Code §96.4(3) - Able and Available/Work Search

STATEMENT OF THE CASE:

The claimant filed an appeal from the July 26, 2017, (reference 02) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on August 22, 2017. Claimant participated with the assistance of Language link Spanish interpreter David, identification number 6878. Employer did not participate.

ISSUE:

Did the claimant make an active and earnest search for work each week benefits were claimed?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was hospitalized and medicated on July 25, 2017 during her fact-finding interview. She was medicated on pain killers and provided incorrect information to the fact-finder. The claimant has been making her required work searches and has kept a written record of her work searches which she has provided to the local office. The claimant is currently attending school, but has not applied for Department Approved Training, (DAT) thus she must continue to make the required job searches each week she claims unemployment insurance benefits.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant has made an active and earnest search for work.

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".

The claimant has sufficiently demonstrated to the satisfaction of the administrative law judge an active and earnest search for work for the weeks she claimed unemployment insurance benefits. The claimant mistakenly indicated otherwise during her fact-finding interview as she was medicated at the time. The claimant must continue to make the required work searches each week she claims benefits. Accordingly, benefits are allowed effective May 21, 2017.

DECISION:

The July 26, 2017, (reference 02), decision is reversed. The claimant did make an active and earnest search for work for the weeks from May 21, 2017 through date of hearing. Benefits are allowed effective May 21, 2017, provided the claimant is otherwise eligible.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/rvs