

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ANGELA D SWEENEY
Claimant

APPEAL NO: 13A-UI-07496-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 05/26/13
Claimant: Appellant (4)

Iowa Code § 96.4(3) – Able to and Available for Work

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's June 18, 2013 determination (reference 02) that held her ineligible to receive benefits as of May 26, 2013, because she was not available to work as a result of a surgery. The claimant participated in the hearing. Claimant Exhibit A was admitted as evidence after July 16, 2013 hearing. Based on the evidence, the claimant's arguments, and the law, the administrative law judge concludes that as of June 16, 2013, the claimant is available for and eligible to receive benefits.

ISSUE:

After the claimant's April 13 surgery, when is she able to and available for work?

FINDINGS OF FACT:

The claimant had shoulder surgery on April 13, 2013. He physician released her to work on June 13 with a restriction that she could not lift more than five to ten pounds. (Claimant Exhibit A.)

With her work restriction, the claimant is looking for work as a receptionist, clerical worker and administrative assistant. The claimant has work experience in these areas.

The claimant established a claim for benefits during the week of May 26, 2013.

REASONING AND CONCLUSIONS OF LAW:

Each week a claimant files a claim for benefits, she must be able to and available for work. Iowa Code § 96.4(3). The law presumes a claimant is not available for work and is ineligible to receive benefits when the claimant is under the care of a medical practitioner and has not been released to work. 871 IAC 24.23(35).

The claimant's physician released her to work on June 13 with a lifting restriction. The claimant established jobs that she can do with this work restriction and that she has prior experience performing. Since the claimant was not released to work until Thursday, June 13, she was not available for work during the majority of the week ending June 15. As of June 16, 2013, the claimant is available for work and eligible to receive benefits.

DECISION:

The representative's June 18, 2013 determination (reference 02) is modified in the claimant's favor. The claimant is not eligible to receive benefits for the weeks ending June 1 through 15, 2013. As of June 16, the claimant is available for work and eligible to receive benefits.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs