

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". ...**

Iowa Code §96.19(38) states:

b. An individual shall be deemed partially unemployed in any week in which, while employed at the individual's then regular job, the individual works less than the regular full-time week and in which the individual earns less than the individual's weekly benefit amount plus fifteen dollars.

An individual shall be deemed partially unemployed in any week in which the individual, having been separated from the individual's regular job, earns at odd jobs less than the individual's weekly benefit amount plus fifteen dollars.

The rule of the Department provide:

a. Week of partial unemployment. A week in which an individual worked less than the regular full-time hours for such individual's regular employer, because of lack of work, and earned less than the weekly benefit amount (plus the partial earnings allowance, if any, in the state's definition of unemployment) but more than the partial earnings allowance, so that, if eligible for benefits, the claimant received less than such claimant's full weekly benefit amount plus \$15.

871 IAC 24.1(139).

Putting these Code sections and the regulation together it follows that for any week during which the Claimant worked for the Employer and was paid wages for that week the Claimant was "partially unemployed, while employed at the individual's regular job..." She did not have to be able and available for work during any such week. Therefore although we affirm the finding that the Claimant was not able and available this finding only denies the Claimant benefits for the weeks ending June 23, 2018 and July 21, 2018 (where she reported no earned wages). For the weeks ending August 4, 2018 and August 11, 2018 she is not eligible because she made more than her benefit amount plus \$15, and this holds regardless of the availability requirement. For the remaining four weeks she was partially unemployed while still employed at her regular job, and so she did not have to be able and available under Iowa Code §96.4(3). She is thus allowed benefits for those weeks in the following amounts:

BWE	Earnings	WBA	Benefits Payable for week in question
6/30	\$126	\$405	\$380
7/07	\$236	\$405	\$270
7/14	\$118	\$405	\$388
7/28	\$361	\$405	\$145
			\$1,183 total

DECISION:

The decision of the Administrative Law Judge is affirmed as modified in the Claimant's favor and she is allowed partial benefits as detailed above.

Kim D. Schmett

Ashley R. Koopmans

James M. Strohman

RRA/fnv