

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

GITANA N SIERRA-SNYDER
Claimant

APPEAL NO. 08A-UI-05021-LT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CARDIOVASCULAR MEDICINE PC
Employer

**OC: 04/27/08 R: 04
Claimant: Appellant (2)**

Section 96.4-3 – Medically Able to Work

STATEMENT OF THE CASE:

Gitana N. Sierra-Snyder filed a timely appeal from an unemployment insurance decision dated May 26, 2008, reference 01, that held her ineligible for unemployment insurance benefits upon a finding that she was not medically able to work. Due notice was issued for a telephone hearing to be held June 9, 2008. On May 30, 2008, however, the agency issued another fact-finding decision ruling that the claimant was medically able to work effective the original date of her claim. Under these circumstances, a hearing is not necessary.

ISSUE:

Is the claimant medically able to work?

FINDINGS OF FACT:

Having examined all matters of record, the administrative law judge finds: The fact-finding decision dated May 30, 2008, reference 03, has granted the relief requested by the claimant. The agency has ruled she is medically able to work.

REASONING AND CONCLUSIONS OF LAW:

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".

A key eligibility requirement for the receipt of unemployment insurance benefits is that a claimant be medically able to perform some kind of work. The claimant disputed the initial determination which has now been superseded by the May 30 fact-finding decision. The administrative law judge can grant the claimant no further relief. If the employer disagrees with the latter fact-finding decision, it can file its own appeal from that determination.

DECISION:

The unemployment insurance decision dated May 26, 2008, reference 01, is reversed. The claimant is entitled to receive unemployment insurance benefits, provided she is otherwise eligible.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

kjw/css