IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU

JESSICA A SMITH Claimant **IOWA WORKFORCE DEVELOPMENT DEPARTMENT**	**APPEAL 17A-UI-11805-DL-T** **ADMINISTRATIVE LAW JUDGE DECISION** **OC: 09/03/17** **Claimant: Appellant (2)**

Iowa Code § 96.4(3) – Ability to and Availability for Work
Iowa Admin. Code r. 871-24.22(2) – Able & Available - Benefits Eligibility Conditions

STATEMENT OF THE CASE:

The claimant filed an appeal from the November 13, 2017, (reference 04), unemployment insurance decision that denied benefits based upon filing a weekly continued claim indicating unavailability for work the week-ending October 28, 2017. After due notice was issued, a telephone conference hearing was scheduled to be held on December 8, 2017. Claimant participated.

ISSUE:

Is the claimant able to work and available for work the week-ending October 28, 2017?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant made a keystroke error when filing the weekly continued claim indicating she was not able to or available for work for the week-ending October 28, 2017. Claimant was able to and available for work and made adequate work searches during the week at issue.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant is able to work and available for work and made an adequate work search the week-ending October 28, 2017.

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.
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> **(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.

Because the report indicating claimant was not able to or available for work for the week at issue was due to a keystroke error, claimant is considered able to and available for work.

DECISION:

The November 13, 2017, (reference 04) unemployment insurance decision is reversed. The claimant was able to work and available for work for the week-ending October 28, 2017. Benefits are allowed.

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Dévon M. Lewis
Administrative Law Judge

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Decision Dated and Mailed

dml/rvs