

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JENNIFER GRIMSLEY
Claimant

APPEAL NO: 16A-UI-07396-JE-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 02/21/16
Claimant: Appellant (1)

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the June 23, 2016, reference 07, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on July 25, 2016. The claimant participated in the hearing.

ISSUE:

The issue is whether the claimant is able and available for work.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant had surgery May 6, 2016, to remove a brain tumor. She is still recovering from the surgery and has also acquired new symptoms such as numbness in her left leg and her right knee giving out, both of which can cause her to fall unexpectedly. The claimant has not received a full release to return to work to date.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant is not able to work and available for work.

Iowa Code § 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".

Because the claimant has not received a full release to return to work from her treating physician as of this date, she is not considered able and available for work as is required before the claimant would be eligible for unemployment insurance benefits, provided she is otherwise eligible. Accordingly, benefits are denied.

DECISION:

The June 23, 2016, reference 07, decision is affirmed. The claimant is not able to work and available for work effective May 8, 2016. Benefits are denied.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/pjs