

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

NANCY JOHNSON
Claimant

APPEAL 21A-UI-06701-SN-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 03/15/20
Claimant: Appellant (1)**

Iowa Code § 96.4(3) – Able and Available/Work Search

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the February 23, 2021, (reference 01), unemployment insurance decision that warned claimant to make at least two work-search contacts per week but did not deny benefits for the week ending January 2, 2021. After due notice was issued, a telephone conference hearing was scheduled to be held on May 12, 2021. Claimant participated.

ISSUE:

Did the claimant make an adequate work search for the week ending January 2, 2021, and was the warning appropriate?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds:

The claimant claimed benefits for the week ending January 2, 2021. She did not make two work searches for that week. The claimant states she is excused from making job searches because she has an underlying condition which makes her more susceptible to Covid19 infection and mortality. The claimant provided a copy of a medical provider note dated March 2, 2021 written by Advanced Registered Nurse Practitioner Nancy Thurtell, which states she has diabetes and hypothyroidism which “increases her risk of serious consequences with infectious diseases including Covid19.” (Exhibit A)

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant has not made an active and earnest search 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".

Iowa Admin. Code r. 871-24.23(28) provides:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(28) A claimant will be ineligible for benefits because of failure to make an adequate work search after having been previously warned and instructed to expand the search for work effort.

Iowa Admin. Code r. 871-24.23(3) and (35) provide:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(3) If an individual places restrictions on employability as to the wages and type of work that is acceptable and when considering the length of unemployment, such individual has no reasonable expectancy of securing work, such individual will be deemed not to have met the availability requirements of Iowa Code section 96.4(3).

(35) Where the claimant is not able to work and is under the care of a medical practitioner and has not been released as being able to work.

The claimant says her medical provider note excuses her from making job searches because she is at higher risk for infection. The administrative law judge finds this argument unavailing because the claimant must be able and available for work. In other words, she must show but for her best efforts she could work for each week in question. The claimant's medical provider note is essentially conceding she is not able to work in a broad class of jobs. While the administrative law judge is sympathetic to the claimant's circumstances, this goes to the heart of the issue of eligibility under Iowa Admin. Code r. 871-24.23(35). Furthermore, there are jobs which do not require her to leave her home and the claimant conceded she has not been applying for those jobs. This is a concession she is not available for work for those jobs under Iowa Admin. Code r. 871-24.23(3). Accordingly, the warning was appropriate.

DECISION:

The February 23, 2021, (reference 01), unemployment insurance decision is affirmed. The claimant did not make an active and earnest search for work for the week ending week ending January 2, 2021. Therefore, the warning was appropriate. The claimant must make the requisite job searches to maintain her eligibility.



Sean M. Nelson
Administrative Law Judge
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515) 725-9067

May 20, 2021
Decision Dated and Mailed

smn/ol