

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JOEL VERGARA CALDERON
Claimant

APPEAL NO. 11A-UI-01992-PT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 11/28/10
Claimant: Appellant (2)

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated February 9, 2011, reference 05, which held claimant was not able and available for work. After due notice, a telephone conference hearing was scheduled for and held on March 19, 2011. Claimant participated personally. Exhibit One was admitted into evidence.

ISSUE:

The issue in this matter is whether claimant is able and available for work.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: The claimant has been treating for hyperthyroidism since November 2010. At no time has he been under restrictions for this condition. At the fact finding the claimant explained that if the treatment was not successful that he may have to be restricted for one week but the treatment has been successful. This is confirmed by the claimant's physician in a note dated February 15, 2011.

REASONING AND CONCLUSIONS OF LAW:

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".

The claimant has been treating for hyperthyroidism since November 2010. At no time has he been under restrictions for this condition. His treating physician confirmed this in Claimant's Exhibit One. Benefits are allowed effective November 28, 2010 provided claimant is otherwise eligible.

DECISION:

The decision of the representative dated February 9, 2011, reference 05, is reversed. Benefits are allowed effective November 28, 2010 provided, claimant is otherwise eligible.

Ron Pohlman
Administrative Law Judge

Decision Dated and Mailed

rrp/pjs