

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

**SHAWNTAE D RANDLE**  
Claimant

**THE UNIVERSITY OF IOWA**  
Employer

**APPEAL NO. 20A-UI-05637-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 05/17/20**  
**Claimant: Appellant (2)**

Iowa Code Section 96.4(3) – Able & Available

**STATEMENT OF THE CASE:**

Shawntae Randle filed a timely appeal from the June 5, 2020, reference 02, decision that denied benefits effective May 17, 2020, based on the deputy's conclusion that Ms. Randle was unable to work due to injury. After due notice was issued, a hearing was held on July 13, 2020. Ms. Randle participated personally and was represented by attorney Eric Bigley. The employer did not provide a telephone number for the hearing and did not participate. Exhibits A and B were received into evidence. The administrative law judge took official notice of the following Agency administrative records: KCCO and DBRO.

**ISSUES:**

Whether the claimant has been able to work and available for work since May 17, 2020.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Shawntae Randle established an original claim for benefits that was effective May 17, 2020. By the time of the July 13, 2020 appeal hearing, Ms. Randle had made consecutive weekly claims for the period of May 17, 2020 through July 4, 2020. For each weekly claim, Ms. Randle reported that she was able to work, available for work, had not refused suitable offers of employment, had made two employer contacts, and had no wages to report.

Ms. Randle was most recently employed by The University of Iowa, where she held the title of Central Services Technician II. The employment was full-time and the work hours were 6:00 a.m. to 2:00 p.m. Ms. Randle's work supported the surgical staff. Ms. Randle would process and sanitize surgical instruments and other equipment used during surgeries. Ms. Randle would assemble and disassemble surgical instruments for the surgeon, would set up surgical case carts, and would pull, order and restock supplies. Ms. Randle would routinely use the phone and computer to perform her duties. The work required that Ms. Randle be able to lift 25 pounds throughout the day.

In 2018, Ms. Randle experienced a workplace repetitive use injury to her lumbar spine after spending several days manually washing and sanitizing case carts. Over the course of several

work days, Ms. Randle's back pain worsened. Ms. Randle received medical evaluation and was placed off work for further evaluation of her injury. Ms. Randle remained off work for three months, during which time she underwent an MRI and participated in physical therapy. Ms. Randle's work-related health issue continued to prevent her from performing her regular duties.

On November 26, 2020, an orthopedist specialist, Dr. Fred Dery, M.D. determined that Ms. Randle had reached maximum medical improvement (MMI) effective November 26, 2019. Ms. Randle had finished physical therapy a month or two earlier. The orthopedist set forth the treatment plan as follows:

Continue Cymbalta 60 mg. b.i.d., continue Lyrica 150 mg at bedtime only, continue with vocational rehab in job search, complete functional capacity evaluation for determination of permanent work restrictions, at MMI as of today 11/26/2019. According to the DRE lumbar category criteria for rating impairment she would be at 5% impairment of the whole person. Off of work until completing FCE and finding a job that she can objectively handle per results of FCE.

By December 19, 2019, Ms. Randle had completed the Functional Capacity Evaluation. Based on the FCE, Dr. Dery set forth Ms. Randle's permanent medical restrictions as follows:

Per the FCE page 1 recommendations-permanent restrictions will include floor to waist lifting of 30 lb occasionally, 12 in to waist lifting of 30 lb occasionally, waist to shoulder lifting of 20 lb occasionally, waist to overhead lifting of 20 lb occasionally, bilateral carrying 35 lb occasionally up to 50 ft, horizontal pushing and pulling 35 lb of force occasionally up to 25 ft, sustained bending occasionally, sustained kneeling has not functional limitation, squatting has no functional limitation, stair climbing has not functional limitation, sitting no functional limitation.

Per the FCE page 3 this patient may work within the medium physical demand level with the [heaviest weight she is] able to lift within the demand level being 30 lbs.

Barring [any unforeseen] dramatic change in this patient's symptoms and/or exam findings these specific restrictions will be permanent starting 12/19/2019.

The employer determined that it could not accommodate Ms. Randle's permanent restrictions so that she could remain in the Central Services Technician II position. The employer imposed a 90-day leave of absence, during which time Ms. Randle was to search for other university employment within her permanent restrictions. Ms. Randle attempted to locate other employment within the university, but was unable to secure other employment within the university.

Since Ms. Randle established the claim for benefits that was effective May 17, 2020, she has sought work within her permanent restrictions. Dr. Dery had recommended that she avoid physically demanding jobs and pursue sedentary work, such as clerical or secretarial work. Ms. Randle has applied for several different types of receptionist/front desk positions in North Liberty and Iowa City. Ms. Randle has transportation available to get to and from such employment. Ms. Randle has not required medical treatment since she last saw Dr. Dery in November 2019. However, Ms. Randle has continued to receive vocational rehabilitation services.

## 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".

Iowa Admin. Code r. 871-24.22(1)(a) and (2) provides:

Benefits 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.

(1) Able to work. An individual must be physically and mentally able to work in some gainful employment, not necessarily in the individual's customary occupation, but which is engaged in by others as a means of livelihood.

a. Illness, injury or pregnancy. Each case is decided upon an individual basis, recognizing that various work opportunities present different physical requirements. A statement from a medical practitioner is considered prima facie evidence of the physical ability of the individual to perform the work required. A pregnant individual must meet the same criteria for determining ableness as do all other individuals.

...

(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.

The evidence in the record establishes that Ms. Randle has been physically and mentally able to work, available for work, and has been actively and earnestly seeking new employment within her permanent restrictions since she established the claim for benefits that was effective May 17, 2020. The fact that Ms. Randle is no longer physically able to perform the physically

taxing work she performed for the University of Iowa does not prevent her from meeting the able and available requirements. There would be many positions in the Iowa City, Coralville and North Liberty area that would fall within Ms. Randle's permanent restrictions. Ms. Randle had identified and pursued a number of such positions. Ms. Randle is eligible for benefits for the period beginning May 17, 2020, provided she meets all other eligibility requirements.

**DECISION:**

The June 5, 2020, reference 02, decision is reversed. The claimant has been able to work and available for work since establishing her claim for benefits. Accordingly, the claimant is eligible for benefits beginning May 17, 2020, provided she meets all other eligibility requirements.



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James E. Timberland  
Administrative Law Judge

August 17, 2020  
Decision Dated and Mailed

jet/sam