

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**AMY WILLIAMS**  
Claimant

**APPEAL NO: 15A-UI-00080-ET**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**MARS PETCARE US INC**  
Employer

**OC: 11/09/14  
Claimant: Appellant (4)**

Section 96.4-3 – Able and Available

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the December 22, 2014, reference 02, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on January 28, 2015. The claimant participated in the hearing. The employer did not respond to the hearing notice by providing a phone number where it could be reached at the date and time of the hearing as evidenced by the absence of a name and phone number on the Clear2There screen showing whether the parties have called in for the hearing as instructed by the hearing notice. The employer did not participate in the hearing or request a postponement of the hearing as required by the hearing notice.

**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 was hired as a full-time production worker for Mars Petcare on September 30, 2013. The claimant was pregnant and her physician placed her on bed rest effective August 20, 2014, because her pregnancy was high risk. The claimant delivered a baby girl December 5, 2014.

On January 14, 2015, the claimant received a full release to return to work without restrictions. The claimant had maintained contact with the employer throughout her time off. She provided the employer with her work release January 15, 2015, and was told the employer filled her position while she was off work so she had to wait for an open spot and then bid on it. The claimant is waiting for a position to open at this time.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant was not able and available for work until the week ending January 17, 2015.

Iowa Code § 96.5-1 provides:

An individual shall be disqualified for benefits:

1. Voluntary quitting. If the individual has left work voluntarily without good cause attributable to the individual's employer, if so found by the department.

Iowa Code § 96.5-1-d provides:

An individual shall be disqualified for benefits:

1. Voluntary quitting. If the individual has left work voluntarily without good cause attributable to the individual's employer, if so found by the department. But the individual shall not be disqualified if the department finds that:

d. The individual left employment because of illness, injury or pregnancy upon the advice of a licensed and practicing physician, and upon knowledge of the necessity for absence immediately notified the employer, or the employer consented to the absence, and after recovering from the illness, injury or pregnancy, when recovery was certified by a licensed and practicing physician, the individual returned to the employer and offered to perform services and the individual's regular work or comparable suitable work was not available, if so found by the department, provided the individual is otherwise eligible.

In order to be eligible for benefits, a claimant must be able and available for work. If a claimant suffers a non-work related illness or injury or is pregnant, and is placed under restrictions or other limitations by her treating physician, the employer is not obligated to accommodate those restrictions. (Emphasis added). If the claimant returns to work after receiving a full medical release from the treating physician and the employer has no suitable work available at that time, the claimant would generally be eligible for unemployment benefits at that time. Because the claimant has received a full release to return to work without restrictions but the employer has no suitable work for her at this time, she is considered able and available for work. Accordingly, benefits are allowed effective the week ending January 17, 2015.

**DECISION:**

The December 22, 2014, reference 02, decision is modified in favor of the claimant. The claimant is able to work and available for work. Consequently, benefits are allowed effective the week ending January 17, 2015.

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Julie Elder  
Administrative Law Judge

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Decision Dated and Mailed

je/pjs