

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**COLEEN G KLINE**  
Claimant

**APPEAL NO. 14A-UI-08908-NT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**ALEGENT HEALTH**  
Employer

**OC: 08/03/14**  
**Claimant: Respondent (1)**

Section 96.4-3 – Able and Available for Work

**STATEMENT OF THE CASE:**

Alegent Health filed a timely appeal from the representative's decision dated August 28, 2014, reference 02, which held the claimant eligible to receive unemployment insurance benefits finding that the claimant was now able and available for employment. After due notice was provided, a telephone hearing was held on September 16, 2014. The claimant participated personally. The employer participated by Ms. Suzanne Bassler, Hearing Representative and witnesses Jennifer Smith, Brian Cooley and Marshia Weis.

**ISSUE:**

At issue in this matter is whether the claimant is able and available for work within the meaning of the Employment Security Law.

**FINDINGS OF FACT:**

The administrative law judge, having considered the evidence in the record, finds: Coleen Kline was previously employed by Alegent Health until August 6, 2014 when she was discharged for excessive unexcused absenteeism. Ms. Kline filed an initial claim for unemployment insurance benefits with an effective date of August 3, 2014. The claimant has been actively and earnestly seeking employment in a variety of occupational fields. The claimant is physically able to accept employment and is available to accept employment if offered.

**REASONING AND CONCLUSIONS OF LAW:**

The question before the administrative law judge is whether the evidence in the record establishes that the claimant is able and available for work within the meaning of the Employment Security Law effective August 3, 2014. She is.

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 § 96.19, subsection 38, paragraph "b", unnumbered paragraph 1, or temporarily unemployed as defined in § 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 § 96.5, subsection 3 are waived if the individual is not disqualified for benefits under § 96.5, subsection 1, paragraph "h".

An otherwise eligible claimant is eligible to receive benefits with respect to any week only if the evidence indicates that the individual is able to work, is available for work, and is earnestly and actively seeking work. Iowa Code section 96.4(3) and 871 IAC 24.22. The claimant bears the burden of establishing that the claimant meets the above requirements. 871 IAC 24.22.

To satisfy the ableness requirement, an individual must be physically and mentally able to work in some gainful employment, not necessarily the individual's customary occupation, but which is engaged in by others as a means of livelihood. 871 IAC 24.22(1). With regard to illness, or injury each case is decided upon an individual basis, recognizing that various work opportunities present different physical requirements. 871 IAC 24.22(1)(a). A statement from a medical practitioner is considered prima facie evidence of physical ability of the individual to perform the work required, that is, the statement is legally sufficient to establish the claimant's physical ability unless disproved by other evidence. 871 IAC 24.22(1)(a).

To satisfy the availability requirement, an individual must be willing, able, and ready to accept suitable work which the individual does not have good cause to refuse, that is, an individual must be genuinely attached to the labor market. A labor market for an individual means a market for the type of services which the individual offers in a geographic area in which the individual offers the service. It means only that the type of services which an individual is offering is generally performed in the geographic area in which the individual is offering the services.

Based upon the evidence in the record and the application of the appropriate law, the administrative law judge concludes the claimant has been able and available for employment since establishing her claim for benefits and therefore is eligible to receive unemployment insurance benefits providing that her eligibility continues.

**DECISION:**

The representative's decision dated August 28, 2014, reference 02, is affirmed. The claimant is able and available for unemployment beginning August 3, 2014 and is eligible to receive unemployment insurance benefits providing that she meets all other eligibility requirements of Iowa law

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Terence P. Nice  
Administrative Law Judge

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Decision Dated and Mailed

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