

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JAMES HALE
Claimant

APPEAL NO. 07A-UI-07099-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 06/24/07 R: 02
Claimant: Appellant (2)**

Section 96.4-3 – Able and Available for Work

STATEMENT OF THE CASE:

James Hale filed an appeal from a representative's decision dated July 18, 2007, reference 03, which held claimant ineligible to receive unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on August 7, 2007. The claimant participated personally.

ISSUE:

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

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and having considered all the evidence in the record, finds: The claimant was temporarily hospitalized for a portion of one day on or about July 16, 2007. Mr. Hale was released from hospitalization that day. Although suffering from some physical maladies, Mr. Hale was actively engaged in seeking employment with prospective employers, seeking work of a lighter nature that is generally available to workers in the general workforce in the geographic area where Mr. Hale resides.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge concludes, based upon the evidence in the record, that Mr. Hill was able and available for work during the majority of the week surrounding his hospitalization on or about July 16, 2007. The claimant was hospitalized for a portion of that day and then released by his physician. The claimant actively sought work by contacting prospective employers for work that was generally available in the general workforce in the geographic area where Mr. Hale resides.

871 IAC 24.22(1)a 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.

871 IAC 24.23(1), (35) provides:

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

(1) An individual who is ill and presently not able to perform work due to illness.

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

For the reasons stated herein, the administrative law judge finds that the claimant was able and available for work within the meaning of the Iowa Employment Security Act and is eligible to receive unemployment insurance benefits, provided that he meets all other eligibility requirements of Iowa law.

DECISION:

The representative's decision dated July 18, 2007, reference 03, is hereby reversed. The claimant is able and available for work and eligible to receive unemployment insurance benefits, provided that he meets all other eligibility requirements of Iowa law.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

kjw/kjw