

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**PEGGY A DUETSCH-KNUTSON**  
Claimant

**APPEAL 17A-UI-09882-H2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE DEVELOPMENT  
DEPARTMENT**

**OC: 08/06/17  
Claimant: Appellant (2)**

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Iowa Code § 96.4(3) – Ability to and Availability for Work  
Iowa Admin. Code r. 871-24.22 – Able & Available - Benefits Eligibility Conditions

**STATEMENT OF THE CASE:**

Claimant filed a timely appeal from the September 21, 2017 (reference 02) decision that denied benefits for the one week period from September 17 through September 23, 2017. After due notice was issued, a hearing was held by telephone conference call on October 12, 2017. Claimant participated. Claimant's Exhibit A was received.

**ISSUE:**

Was the claimant able to and available for work for the week ending on September 23, 2017?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant initially thought she was going to be unable to work during the week ending September 23, 2017 due to a pre-planned surgery. Her surgery was cancelled by her treating physician thus she ended up being able to and available for work during the entire week. The claimant did make her required work searches during the week.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes that the claimant is able to work and available for work for the week ending September 23, 2017.

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(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.

(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 claimant's planned surgery was cancelled. Claimant has no medical restriction or other limitation on her employability effective September 17, 2017. Accordingly, benefits are allowed.

**DECISION:**

The September 21, 2017, (reference 02) decision is reversed. The claimant is able to work and available for work effective September 17, 2017. Benefits are allowed.

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Teresa K. Hillary  
Administrative Law Judge

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Decision Dated and Mailed

tkh/rvs