

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

DANA L UTT
Claimant

APPEAL 19A-UI-10202-AW-T
ADMINISTRATIVE LAW JUDGE
DECISION

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 10/06/19
Claimant: Appellant (1)

Iowa Code § 96.4(3) – Eligibility – A&A – Able to, available for, work search
Iowa Admin. Code r. 871-24.22(1)a – Eligibility – A&A – illness, injury, pregnancy

STATEMENT OF THE CASE:

Claimant filed an appeal from the December 12, 2019 (reference 03) unemployment insurance decision that found claimant was not able to and available for work from November 17, 2019 to November 23, 2019 due to illness. Claimant was properly notified of the hearing. A telephone hearing was held on January 21, 2020, at 11:00 a.m. Claimant participated. Claimant's Exhibit A was admitted. Official notice was taken of the administrative record.

ISSUE:

Whether claimant is able to and available for work.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant filed an original claim for benefits effective October 6, 2019 and an ongoing weekly claim for the benefit week ending November 23, 2019. Claimant was unable to work due to illness from Sunday, November 17, 2019 through Friday, November 22, 2019. (Exhibit A)

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant was not able to and available for work.

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 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.

Claimant was not able to and available for work from November 17, 2019 through November 22, 2019. Accordingly, claimant is not eligible for unemployment insurance benefits for the benefit week ending November 23, 2019.

DECISION:

The December 12, 2019 (reference 03) unemployment insurance decision is affirmed. Claimant was not able to and available for work for the benefit week ending November 23, 2019. Benefits are denied for the benefit week ending November 23, 2019, but are allowed thereafter, provided claimant is otherwise eligible.

Adrienne C. Williamson
Administrative Law Judge
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Decision Dated and Mailed

acw/scn