

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JODY E GASCA
Claimant

APPEAL NO: 16A-UI-05397-S1-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

IOWA PREMIUM LLC
Employer

OC: 04/17/16
Claimant: Appellant (1)

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Jody Gasca (claimant) appealed a representative's May 5, 2016, decision (reference 03) that concluded she was not eligible to receive unemployment insurance benefits because she was unable to work with Iowa Premium (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for May 31, 2016. The claimant participated personally. The employer participated by Jenny Mora, Training Manager.

ISSUE:

The issue is whether the claimant is able and available for work as of April 7, 2016.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant worked for the employer from September 24, 2015, to April 12, 2016. Prior to her employment, the claimant had gastric bypass surgery. After the surgery she had complications and was frequently absent from work. On March 28, 2016, the claimant was again in the hospital having surgery. After the surgery her physician did not release her to return to work. On April 12, 2016, the employer told the claimant she was terminated for excessive absenteeism.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge concludes the claimant is not able and available.

Iowa Admin. Code r. 871-24.23(1) 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.

When an employee is ill and unable to perform work due to that illness, she is considered to be unavailable for work. The claimant was in the hospital. After her confinement in the hospital, she was not released to return to work by her physician. She is considered to be unavailable for work after April 7, 2016. The claimant is disqualified from receiving unemployment insurance benefits beginning April 7, 2016, due to her unavailability for work.

DECISION:

The representative's May 5, 2016, decision (reference 03) is affirmed. The claimant is disqualified from receiving unemployment insurance benefits because she is not available for work.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/pjs