

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**MARYWOOD M JOHNSON**  
Claimant

**APPEAL 17A-UI-10352-SC-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE DEVELOPMENT  
DEPARTMENT**

**OC: 09/17/17  
Claimant: Appellant (4)**

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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:**

Marywood M. Johnson (claimant) filed an appeal from the October 9, 2017, reference 06, unemployment insurance decision that denied benefits because her physician indicated she was not able to and available for work effective September 17, 2017. After due notice was issued, a telephone conference hearing was held on October 25, 2017. The claimant participated. Claimant's Exhibit A was received.

**ISSUE:**

Was the claimant able to work, available for work, and actively and earnestly seeking work effective September 17, 2017?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant gave birth to her child on August 29, 2017, after which her doctor determined she was not able to work. She filed for unemployment insurance benefits effective September 17, 2017. The claimant's doctor released her back to work with no restrictions on October 6, 2017. (Claimant's Exhibit A.)

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes that the claimant was not able to and available for work from September 17, 2017 through October 7, 2017 and benefits for that time period are denied. The claimant is able to work and available for work effective October 8, 2017 as her doctor has released her to return to work. Benefits are allowed effective October 8, 2017, provided the claimant is otherwise eligible.

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.

Iowa Admin. Code r. 871-24.23 provides, in relevant part:

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 medical practitioner and has not been released as being able to work.

An individual claiming benefits has the burden of proof that she is be able to work, available for work, and earnestly and actively seeking work. Iowa Admin. Code r. 871-24.22. The claimant was not able to work from September 17, 2017 through October 7, 2017 as she was under a doctor's care following the birth of her child and had not been released back to work. Benefits during this time period are denied.

The claimant was released to return to work by her doctor on October 6, 2017. She is able to and available for work effective October 8, 2017. Benefits are allowed effective October 8, 2017, provided the claimant is otherwise eligible.

**DECISION:**

The October 9, 2017, reference 06, unemployment insurance decision is modified in the claimant's favor. Benefits from September 17, 2017 through October 7, 2017 are denied as the claimant was not able to and available for work. The claimant is able to work and available for work effective October 8, 2017 based on her physician's medical release. Benefits are allowed effective October 8, 2017, provided the claimant is otherwise eligible.

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Stephanie R. Callahan  
Administrative Law Judge

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Decision Dated and Mailed

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