

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CHRISTINA R FARIS
Claimant

APPEAL NO. 11A-UI-09236-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

A PLUS HEALTH CARE SERVICE
Employer

OC: 05/22/11
Claimant: Appellant (4)

Section 96.4-3 – Able and Available for Work

STATEMENT OF THE CASE:

The claimant filed a timely appeal from a representative's decision dated July 6, 2011, reference 02, which held the claimant not eligible to receive unemployment insurance benefits as of May 22, 2011, because the claimant was not able to perform work due to illness. After due notice was issued, a telephone hearing was held on August 4, 2011. The claimant participated personally. Participating as a witness for the claimant was Dr. J. Michael Bertroche. The employer participated by Ms. Michelle Ruvsink, human resource manager.

ISSUE:

At issue is whether the claimant is able and available for work within the meaning of the employment security law.

FINDINGS OF FACT:

Having considered the evidence in the record, the administrative law judge finds: Christina Faris was employed by A Plus Health Care Services as a full-time client service representative. Ms. Faris last worked on April 29, 2011, for A Plus Health Care Service. At that time, and for a period of time thereafter, Ms. Faris provided doctor's notes verifying that she was unable to report for work for medical/psychological reasons. The claimant presented a doctor's note from Dr. Michael Bertroche dated May 10, 2011, stating the claimant could not return to work until June 1, 2011. The claimant's psychiatrist believed that as of June 1, 2011, Ms. Faris's medications would be adjusted and she would be able to return to full-time employment. Before the claimant was released to return to work, she was separated from her employment with the company.

As of June 1, 2011, the claimant's medications had been adjusted and the claimant was verified by Dr. Bertroche as being able to return to employment in the general workforce.

REASONING AND CONCLUSIONS OF LAW:

The question before the administrative law judge is whether the evidence establishes that the claimant is able and available for work as of June 1, 2011. It does.

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".

The evidence in the record establishes the claimant was not able to work for medical/psychological reasons from April 29, 2011, until June 1, 2011. By June 1, 2011, the claimant had been verified by her psychiatrist as being fully able to return to work and Dr. Bertroche verified by medical statement that Ms. Faris's medication had been adjusted and she was fully able to return to full-time employment in the workforce.

The administrative law judge finds the claimant was not able to work from May 22, 2011, until June 1, 2011, at which time she was medically verified as being able to return to employment.

DECISION:

The representative's decision dated July 6, 2011, is affirmed as modified. The claimant was not able to work from the time that she opened her claim effective May 22, 2011, until June 1, 2011. The claimant is eligible to receive unemployment insurance benefits after June 1, 2011, provided she has met all other eligibility requirements of Iowa law.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

kjw/kjw