

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JENNIFER K GREEN
Claimant

MERCY HEALTH SERVICES-IOWA CORP
Employer

APPEAL 19A-UI-05397-LJ-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 06/02/19
Claimant: Appellant (1)

Iowa Code § 96.4(3) – Ability to and Availability for Work
Iowa Admin. Code r. 871-24.22(2) – Able & Available - Benefits Eligibility Conditions

STATEMENT OF THE CASE:

On July 5, 2019, the claimant filed an appeal from the June 24, 2019, (reference 02) unemployment insurance decision that denied benefits based upon a determination that claimant was not able to work for the one-week period ending June 8, 2019. The parties were properly notified of the hearing. A telephonic hearing was held on August 5, 2019. The claimant, Jennifer K. Green, participated. The employer, Mercy Health Services – Iowa Corporation, participated through witnesses Beckie Wahlberg, Employee Relations Consultant; Deb Steecker, Payroll Manager; and Erin Boomsma, Benefits Coordinator; and attorney Jennifer Pierce represented the employer. Claimant's Exhibits A and B and Employer's Exhibits A through H was received and admitted into the record. The administrative law judge took official notice of the administrative record.

ISSUE:

Is the claimant able to work and available for work effective June 2, 2019?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began working for Mercy Health Services on September 11, 2017. Claimant was employed full-time with the employer, most recently as an accountant. Claimant's employment with Mercy Health Services ended on June 10, 2019, when she was discharged for failing to return from a leave of absence.

During the week ending June 8, 2019, claimant was not able to work. She remained under her doctor's care that week, and the doctor had not released her to return to work. Claimant's health did not improve until on or around June 10, 2019. Claimant has been healthy since that date.

Claimant has been available for work. She has not done any traveling or gone out of town since she started filing for benefits. Claimant was offered a job on July 2, 2019. However, this job did not start until July 22, 2019. During the interim, claimant continued applying for jobs in hopes of securing better-paying employment. Claimant applied for at least two jobs each week.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant was able to work and available for work effective June 9, 2019. Benefits are allowed from that point forward, provided she is otherwise eligible.

Iowa Code § 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.

In this case, claimant was not able to work for the one-week period ending June 8, 2019, as she remained under her doctor's care at that time. Claimant's health improved the following week, and she has remained healthy and available since that time. The administrative law judge finds claimant was able to work and available for work effective June 9, 2019.

DECISION:

The June 24, 2019, (reference 02) unemployment insurance decision is affirmed. Claimant was not able to work during the one-week period ending June 8, 2019. Claimant is able to work and available for work effective June 9, 2019. Benefits are allowed from that point forward, provided she is otherwise eligible.

Elizabeth A. Johnson
Administrative Law Judge

Decision Dated and Mailed

lj/scn