

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

AMY WILKIE
Claimant

Y M C A OF THE CEDAR RAPIDS METRO
Employer

APPEAL NO. 21A-UI-07018-B2-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 04/05/20
Claimant: Appellant (1)

Iowa Code § 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated March 5, 2021 reference 01, which held claimant not able and available for work. After due notice, a hearing was scheduled for and held on May 18, 2021. Claimant participated personally. Employer participated by Jan Keene. Claimant's exhibit A was admitted into evidence.

ISSUES:

Whether claimant is able and available for work?

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds:

Claimant works as a part time instructor for employer. She works both as a swimming instructor and as a monitor for before and after school programs for young children. The swimming program was stopped as a result of Covid for a few months, but the children's daycare program continued. Employer had ongoing work available for claimant would she have been willing to work.

Claimant has a heart condition. She did not share this with her employer. Claimant stated she was advised by a doctor not to work around children. Claimant did not provide documentation of this advice. Claimant stopped working for employer from April 5-June 27, 2020. After that date, claimant restarted working the swimming lessons but did not return to the childcare.

REASONING AND CONCLUSIONS OF LAW:

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.

Inasmuch as the claimant never shared any doctor's note or information about a heart condition, employer could not move to accommodate the condition. Claimant kept away from work as she was not able and available to work. The condition was not work-related. Benefits are withheld for the period between April 5 and June 27, 2020.

DECISION:

The decision of the representative dated March 5, 2021, reference 01 is affirmed. Claimant is not eligible to receive unemployment insurance benefits, effective April 5, 2020 through June 27, 2020 as she was not able and available for work.



Blair A. Bennett
Administrative Law Judge

May 25, 2021
Decision Dated and Mailed

bab/ol

Note to Claimant: Even though claimant is not eligible for regular unemployment insurance benefits under state law, she may be eligible for federally funded unemployment insurance benefits under the Coronavirus Aid, Relief, and Economic Security Act ("Cares Act"), Public Law 116-136. Section 2102 of the CARES Act creates a new temporary federal program called Pandemic Unemployment Assistance (PUA) that in general provides up to 39 weeks of unemployment benefits. **You will need to apply for PUA to determine your eligibility under the program.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>.

ATTENTION: On May 11, 2021, Governor Reynolds announced that Iowa will end its participation in federal pandemic-related unemployment benefit programs effective June 12, 2021. The last payable week for PUA in Iowa will be the week ending June 12, 2021. Additional information can be found in the press release at <https://www.iowaworkforcedevelopment.gov/iowa-end-participation-federal-unemployment-benefit-programs-citing-strong-labor-market-and>.