

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TYANN BAILEY
Claimant

APPEAL NO: 15A-UI-10098-JE-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

TRANSWORLD SYSTEMS INC
Employer

OC: 08/24/14
Claimant: Appellant (2)

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the September 1, 2015, reference 02, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on September 22, 2015. The claimant participated in the hearing. The employer did not respond to the hearing notice and did not participate in the hearing or request a postponement of the hearing as required by the hearing notice. Claimant's Exhibit A was admitted into evidence.

ISSUE:

The issue is whether the claimant is able and available for work.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was scheduled to be on FMLA from July 27 through September 7, 2015. On September 2, 2015, shortly before the claimant was scheduled to return from her FMLA, the employer advised the claimant she needed to resign because she was experiencing mental health issues such as depression and told her to file for unemployment benefits.

The claimant was able to make an appointment with a mental health ARNP after a referral from her primary care physician September 4, 2015. The ARNP completed the form provided by the Department certifying the claimant was able and available for work effective September 4, 2015 (Claimant's Exhibit A).

The claimant reopened her previous claim August 2, 2015. She filed a new claim August 30, 2015. She had claimed and received benefits since the week ending September 5, 2015.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant is able to work and available for work effective the week ending September 12, 2015.

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".

The form completed by the claimant's ARNP is presumptive evidence that the claimant is able and available for work effective September 4, 2015. However, because that date was a Friday, the claimant was not available the majority of that work week and consequently is not eligible for benefits for that week but is eligible for benefits effective September 7, 2015. Accordingly, benefits are allowed effective the week ending September 12, 2015.

DECISION:

The September 1, 2015, reference 02, decision is reversed. The claimant is able to work and available for work effective September 7, 2015. Benefits are allowed.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/pjs