

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

LISA D COLE

Claimant

ABCM CORPORATION

Employer

APPEAL NO. 21A-UI-05001-B2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 11/29/20

Claimant: Appellant (2)

Iowa Admin. Code ch. 871 r. 24.23(10) – Leave of Absence

Iowa Code § 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated February 2, 2021 reference 01, which held claimant not able and available for work. After due notice, a hearing was scheduled for and held on April 16, 2021. Claimant participated personally. Employer participated by Tracy Quinones.

ISSUES:

Whether claimant is able and available for work?

Whether claimant is on an approved leave of absence?

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 full time medical records officer/CMA/CAN for employer.

On or shortly before November 30, claimant's husband, who also works at the same facility as claimant, tested positive for Covid. Claimant tested negative. Employer, following CDC and Iowa guidelines asked that claimant be off from work for 10 days and quarantine. Claimant spent the next 10 days away from work and from her husband. Throughout that time claimant remained able and available for work if there was work available for her.

REASONING AND CONCLUSIONS OF LAW:

Iowa Admin. Code r. 871-24.23(10) provides:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(10) The claimant requested and was granted a leave of absence, such period is deemed to be a period of voluntary unemployment and shall be considered ineligible for benefits for such period.

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.

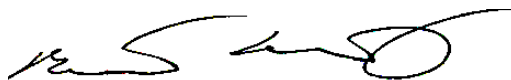
(1) Able to work. An individual must be physically and mentally able to work in some gainful employment, not necessarily in the individual's customary occupation, but which is engaged in by others as a means of livelihood.

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 was suffering from no illness, the claimant has established the ability to work for the one week period she applied for benefits. Benefits shall be allowed effective November 29 through December 5, 2020.

DECISION:

The decision of the representative dated February 2, 2021, reference 01 is reversed. Claimant is eligible to receive unemployment insurance benefits, effective November 29 - December 5 2020, provided claimant meets all other eligibility requirements.



Blair A. Bennett
Administrative Law Judge

April 22, 2021
Decision Dated and Mailed

bab/scn