

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

MELISSA M RODRIGUEZ-WOLF
Claimant

GRANDVIEW HEIGHTS INC
Employer

APPEAL 17A-UI-05844-LJ-T
ADMINISTRATIVE LAW JUDGE
DECISION

OC: 05/14/17
Claimant: Appellant (2)

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:

The claimant filed an appeal from the June 5, 2017 (reference 01) unemployment insurance decision that denied benefits based upon a determination that claimant was not able to work effective May 14, 2017, due to having surgery. The parties were properly notified of the hearing. A telephone hearing was held on June 22, 2017. The claimant, Melissa M. Rodriguez-Wolf, participated. The employer, Grandview Heights, Inc., participated through Jordan Emley, Director of Nursing; and Jill Onnen, HR Assist. Claimant's Exhibit A was received and admitted into the record. The administrative law judge took official notice of the administrative record, specifically claimant's weekly continued claims for benefits.

ISSUE:

Is the claimant able to work and available for work effective May 14, 2017?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed most recently as a Certified Medical Assistant ("CMA") and Certified Nursing Assistant ("CNA"), with this employer. Claimant had surgery on her left hand on April 27, 2017. On May 11, 2017, claimant's physician released her to return to work with a five-pound lifting restriction on her left arm. (Exhibit A) The employer does not accommodate restrictions related to non-work-related injuries (with some exceptions not relevant in this situation). Therefore, claimant was not allowed to return to work on May 11. Claimant ultimately obtained a release to return to work without restrictions on June 13, 2017, and she was allowed to come back to work at that time.

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 May 14, 2017.

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 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".

Here, claimant testified and provided documentation showing she was released to work with a lifting restriction as of May 11, 2017. She also testified that she could have performed her CMA duties and remained within this restriction. Claimant has established her ability to work. Benefits are allowed, provided she is otherwise eligible. Claimant is cautioned that she needs to make a minimum of two job contacts each week. She is advised to consult her Unemployment Insurance Handbook and record her job contacts on the Record of Work Search form found on page 29 of the handbook.

DECISION:

The June 5, 2017 (reference 01) unemployment insurance decision is reversed. The claimant is able to work and available for work effective May 14, 2017. Benefits are allowed, provided she is otherwise eligible. Any benefits claimed and withheld on this basis shall be paid.

Elizabeth A. Johnson
Administrative Law Judge

Decision Dated and Mailed

lj/rvs