

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JENNIFER R. FLORES**  
Claimant

**APPEAL NO: 17A-UCFE-00038-JE-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**C/O EQUIFAX: USPS**  
Employer

**OC: 07/23/17**  
**Claimant: Appellant (1)**

Section 96.4-3 – Able and Available for Work  
871 IAC 24.23(10) – Leave of Absence

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the August 17, 2017, reference 01, 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 7, 2017. 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.

**ISSUE:**

The issues are whether the claimant is on a leave of absence and whether she 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 hired as a full-time lead clerk for United States Post Office April 20, 2011. The claimant had weight loss surgery December 19, 2016, and experienced severe complications following the surgery. She was initially paralyzed from the chest down but graduated to leg braces and is now using a walker. She is doing physical therapy now and starts occupational therapy next week. The claimant is on a leave of absence and her physician has not released her to return to work.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant is on a leave of absence and is not able and available for work.

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. 871-24.23(10) provides:

(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.

The claimant had surgery and suffered severe complications following the surgery. Consequently, she requested and was granted a leave of absence. She has not been released to return to work. Accordingly, she is not considered able and available for work which is required before a claimant is eligible for unemployment insurance benefits. Therefore, benefits must be denied.

**DECISION:**

The August 17, 2017, reference 01, decision is affirmed. The claimant is on an approved leave of absence and is not able and available for work. Benefits are denied.

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Julie Elder  
Administrative Law Judge

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Decision Dated and Mailed

je/scn