

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**CRYSTAL A GIBSON**  
Claimant

**APPEAL NO. 14A-UI-06316-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 05/25/14  
Claimant: Appellant (1)**

Iowa Code Section 96.4(3) – Able & Available

**STATEMENT OF THE CASE:**

Crystal Gibson filed a timely appeal from the June 11, 2014, reference 05, decision that denied benefits effective June 8, 2014 based on an agency conclusion that she was not available for work. After due notice was issued, a hearing was held on July 11, 2014. Ms. Gibson participated. The administrative law judge took official notice of the agency's record of Ms. Gibson's use of the voice response unit to continue her weekly claim for benefits. The administrative law judge took official notice of the claims deputy's notes from the June 10, 2014, fact-finding interview.

**ISSUES:**

Whether the claimant has been able to work and available for work June 8, 2014.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Crystal Gibson established a claim for benefits that was effective May 25, 2014. Ms. Gibson's claim for benefits included a claim for the weeks ending June 14, 2014 through July 12, 2014. On June 10, 2014, Ms. Gibson participated in a fact-finding interview. During the fact-finding interview, Ms. Gibson told the claims deputy that she was in Mississippi, that she was from Mississippi, that her whole family was with her, and that her mother was not doing well. Ms. Gibson told the claims deputy that she had driven to Mississippi on June 6, 2014 and that she was planning to return to Waterloo in a couple days. Ms. Gibson told the claims deputy that she would report to the Waterloo Workforce Development Center upon her return. Ms. Gibson indicates that she has made one job contact per week for the weeks ending June 14 through July 5, 2014. As of Friday, July 11, 2014, Ms. Gibson had made no new job contacts for the week ending July 12, 2014 and had only checked back with Manpower. Manpower had been Ms. Gibson's sole purported job contact for the week ending June 14, 2014. Ms. Gibson intentionally misrepresented her work search activities when she used the voice response unit to make her weekly claims for the weeks ending June 14, 2014 through July 12, 2014. For the first four of those weeks, Ms. Gibson reported two job contacts when she did not make two job contacts. For the week that ended July 12, 2014, Ms. Gibson reported three job contacts though she did not have any new job contacts and had merely checked back in with Manpower.

## 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 § 96.19, subsection 38, paragraph "b", unnumbered paragraph 1, or temporarily unemployed as defined in § 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 § 96.5, subsection 3 are waived if the individual is not disqualified for benefits under § 96.5, subsection 1, paragraph "h".

Iowa Admin. Code r. 871-24.22(2) 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.

(2) Available for work. The availability requirement is satisfied when an individual is willing, able, and ready to accept suitable work which the individual does not have good cause to refuse, that is, the individual is genuinely attached to the labor market. Since, under unemployment insurance laws, it is the availability of an individual that is required to be tested, the labor market must be described in terms of the individual. A labor market for an individual means a market for the type of service which the individual offers in the geographical area in which the individual offers the service. Market in that sense does not mean that job vacancies must exist; the purpose of unemployment insurance is to compensate for lack of job vacancies. It means only that the type of services which an individual is offering is generally performed in the geographical area in which the individual is offering the services.

The weight of the evidence establishes that Ms. Gibson has not met the work availability requirement or the work search requirement since the benefit week that started June 8, 2014. The evidence further indicates that Ms. Gibson had been intentionally dishonest in her dealings with Workforce Development regarding her eligibility for benefits. There would be no reason for the claims deputy to document the rather specific statement attributed to Ms. Gibson until Ms. Gibson said those words to the claims deputy. The weight of the evidence indicates that Ms. Gibson did indeed tell the claims deputy on June 10, 2014 that she had traveled out of state on June 6, 2014 and that she intended to remain out of state for a couple more days. The dishonesty extended to the appeal hearing and included ongoing dishonesty when making a weekly claim for benefits. Ms. Gibson did not demonstrate an active and earnest search for work during the period in question and intentionally misrepresented that she had. Benefits are denied effective June 8, 2014. The disqualification continued as of the June 11, 2014 appeal hearing. Ms. Gibson will continue to be ineligible for benefits until she demonstrates actual availability for work and work referrals and demonstrates an *active and earnest* search for new employment.

**DECISION:**

The claims deputy's June 11, 2014, reference 05, decision is affirmed. The claimant has not met the work availability requirement or the work search requirement since the benefit week that started June 8, 2014. Benefits are denied effective June 8, 2014. The disqualification continued as of the July 11, 2014 appeal hearing. The claimant will continue to be ineligible for benefits until she demonstrates actual availability for work and work referrals and demonstrates an *active and earnest* search for new employment.

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James E. Timberland  
Administrative Law Judge

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Decision Dated and Mailed

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