

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

HEIDI ENGEN
Claimant

CARE INITIATIVES
Employer

APPEAL 21A-UI-12861-SN-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/14/21
Claimant: Appellant (2)

Iowa Code § 96.4(3) – Ability to and Availability for Work
Iowa Admin. Code r. 871-24.23(10) – Leave of Absence

STATEMENT OF THE CASE:

The claimant, Heidi Engen, filed an appeal from the May 24, 2021, (reference 01) unemployment insurance decision that denied benefits based upon the conclusion she requested and was granted a leave of absence. The parties were properly notified of the hearing. A telephone hearing was held on August 2, 2021. The claimant participated. The employer participated through Unemployment Hearing Representative Susan Chmelovsky and Manager Makayla Westendorf.

ISSUE:

Was the claimant able to work, available for work, and actively and earnestly seeking work the week ending March 14, 2021?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds:

The claimant started working as a full-time social services coordinator for the employer, Care Initiatives, on June 15, 2011. The claimant's hourly rate was \$29.59 per hour. Her schedule was Monday through Friday from 8:00 a.m. to 4:00 p.m. or 5:00 p.m.

As social services coordinator, the claimant helped assess services from admission to discharge. The performance of these duties required the claimant to meet with residents and their families. Many of her duties regard filling out paperwork during the residency of a patient. She also developed plans for resident activities. The claimant would also perform rounds. The social services coordinator job description, states she was required to stand, walk, kneel, crouch and lift more than 25-pounds more than one third of the time. Other than the duty regarding performing rounds, there are not job tasks that justify these physical requirements.

On February 9, 2020, the claimant had spinal meningitis and was hospitalized.

In May 2020, the claimant received a release to return to work written by Advanced Registered Nurse Practitioner Sarah Kane. The release restricted the claimant from lifting more than 25-pounds. She was restricted from standing or walking for more than 10 minutes. The claimant was allowed to return in June 2020. The claimant performed all of her duties with minor accommodations, such as limiting her rounds to the rooms near her.

The claimant last worked for the employer on August 4, 2020. On that day, the claimant was exposed to someone infected by Covid19. The employer instructed her to remain at home, so as not to spread Covid19.

On August 11, 2020, the claimant tested positive for Covid19.

In August 2020, Administrator Rachel Bowser and Brittany Sheckles made the decision the claimant could not perform the duties of her position within her restrictions. They placed her on casual status

On December 26, 2020, the claimant separated from employment.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant was able to work and available for work effective March 14, 2021. Benefits are granted.

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.

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

Benefit 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.

Iowa Admin. Code r. 871-24.23 provides:

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

(1) An individual who is ill and presently not able to perform work due to illness.

(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.

(35) Where the claimant is not able to work and is under the care of a medical practitioner and has not been released as being able to work.

An individual claiming benefits has the burden of proof that she is be able to work, available for work, and earnestly and actively seeking work. Iowa Admin. Code r. 871-24.22.

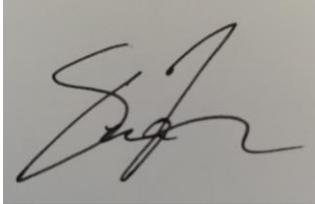
The claimant was not ill or subject to restrictions, such that she could not perform her duties as to be disqualified under Iowa Admin. Code r. 871-24.23 (1) and (35). While the job description states the claimant was required to have the ability to lift, squat, crouch, stand and walk, the actual duties she was asked to perform do not align with these physical requirements. The claimant performed her duties with minor accommodations from June to August 4, 2021. The claimant also did not request a leave of absence such to be disqualified under Iowa Admin. Code r. 871-24.23 (10).

DECISION:

The March 24, 2021, (reference 01) unemployment insurance decision is reversed. The claimant was able to work and available for work effective March 14, 2021. Benefits are granted, provided she is otherwise eligible.

REMAND:

The administrative law judge is remanding to the Benefits Bureau to evaluate whether her separation qualifies her for benefits.



Sean M. Nelson
Administrative Law Judge
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August 12, 2021
Decision Dated and Mailed

smn/lj