

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ALEXANDRO MEDINA
Claimant

APPEAL 16A-UI-12591-CL-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

INNOVATIVE INJECTION
Employer

**OC: 08/21/16
Claimant: Appellant (4)**

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 November 18, 2016, (reference 09) unemployment insurance decision that allowed benefits effective October 23, 2016, based upon his ability to work. The parties were properly notified about the hearing. A telephone hearing was held on December 12, 2016. Claimant participated. Employer did not participate. Claimant's Exhibit A was received.

ISSUE:

Is the claimant able to work and available for work effective October 23, 2016?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant's medical provider released him to return to work with no restrictions effective August 20, 2016.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant is able to work and available for work effective August 21, 2016.

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that the individual is able to work, is available for work, and is earnestly and actively seeking work. Iowa Code § 96.4(3).

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 treating physician had released claimant to return to work without restriction effective August 21, 2016, claimant is able to and available for work.

DECISION:

The November 18, 2016, (reference 09) unemployment insurance decision is modified in favor of appellant. The claimant is able to work and available for work effective August 21, 2016. Benefits are allowed, provided he is otherwise eligible.

Christine A. Louis
Administrative Law Judge
Unemployment Insurance Appeals Bureau
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Decision Dated and Mailed

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