

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

DAHISHA S SPATES
Claimant

APPEAL 19A-UI-08560-CL-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 09/15/19
Claimant: Appellant (3R)**

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:

On October 30, 2019, the claimant filed an appeal from the October 23, 2019, (reference 03) unemployment insurance decision that denied benefits from September 15, 2019, through October 12, 2019. The claimant was properly notified about the hearing. A telephone hearing was held on November 22, 2019. Claimant participated.

ISSUE:

Is the claimant able to and available for work?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was hired to work for Western Home Services. The administrative record shows that she was paid \$46.00 in wages before abruptly needing surgery on her leg on September 9, 2019. Claimant's medical provider restricted her from working until October 22, 2019. On October 22, 2019, claimant was released to return to work with no restrictions.

The medical provider restricted claimant from walking on her leg between September 9 and October 22, 2019. Although claimant could still apply for jobs, she was unable to work in the careers in which she has experience—long term care, hospitality, and production.

The Benefits Bureau of Iowa Workforce Development has not issued an initial decision on whether claimant's separation from employment with Western Home Services disqualifies her from receiving unemployment insurance benefits.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant is not able to work and available for work for the five weeks ending October 19, 2019.

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. 871-24.23(35) provides:

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

(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.

In this case, claimant was not able to work during the time period between September 9, 2019, and October 22, 2019. Therefore, she is not eligible for benefits during the five weeks ending October 19, 2019.

DECISION:

The October 23, 2019, (reference 03) unemployment insurance decision is modified in a manner that is not favorable to claimant. The claimant is not able to work and available for work during the five weeks ending October 19, 2019. Previously, claimant was denied benefits for the four weeks ending October 12, 2019.

REMAND:

The issue of whether claimant's separation from employment from Western Home Services, as delineated in the findings of fact above, disqualifies claimant from receiving unemployment insurance benefits is remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and decision.



Christine A. Louis
Administrative Law Judge
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Decision Dated and Mailed

cal/scn