

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

DANIELLE G GILBERT
Claimant

WELLS FARGO BANK NA
Employer

APPEAL 17A-UI-09559-CL-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 08/06/17
Claimant: Respondent (1)**

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 employer filed an appeal from the September 8, 2017, (reference 04) unemployment insurance decision that allowed benefits based upon claimant's ability to work. The parties were properly notified about the hearing. A telephone hearing was held on October 3, 2017. Claimant participated. Employer participated through executive resolution manager Azra Simons and was represented by Marcy Schneider with Barnett Associates.

ISSUES:

Is the claimant able to work and available for work effective August 6, 2017?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant's medical provider released her to return to work without restrictions effective August 1, 2017. Claimant has no other restrictions on her availability for work.

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.

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.

Claimant has no medical restriction or other limitation on her employability effective August 6, 2017. Accordingly, benefits are allowed.

DECISION:

The September 8, 2017 (reference 04) decision is affirmed. The claimant is able to work and available for work effective August 6, 2017. Benefits are allowed, provided claimant is otherwise qualified.

Christine A. Louis
Administrative Law Judge
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Decision Dated and Mailed

cal/scn