

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

ANDREA M GREEN
Claimant

APPEAL NO: 20A-UI-04793-JE-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

IOWA WORKFORCE DEVELOPMENT
Employer

OC: 04/05/20
Claimant: Appellant (4)

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the June 01, 2020, reference 04, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on June 16, 2020. The claimant participated in the hearing.

ISSUE:

The issue is whether the claimant is able and available for work.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant separated from her full-time employer, Hiawatha Care Center, March 24, 2020. She was pregnant with a high risk pregnancy and suffering from gallbladder issues, gestational diabetes and celiac's disease and those issues contributed to her separation from her employment.

The claimant gave birth to her daughter May 12, 2020. She was scheduled to have a tubal ligation May 13, 2020, but her insurance company denied payment for the surgery when she was on the table waiting for the surgery. Her physician is releasing her to return to work without restriction effective June 26, 2020.

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 until June 26, 2020.

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 4 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. 871-24.23.(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.

The claimant was experiencing a high-risk pregnancy and has not been able and available for work since she filed her claim effective April 5, 2020. Her physician, however, is releasing her without restriction June 26, 2020. Accordingly, the claimant is able and available for work effective the week ending July 4, 2020.

DECISION:

The June 01, 2020, reference 04, decision is modified in favor of the claimant. The claimant is able to work and available for work effective the week ending July 4, 2020, provided she is otherwise eligible.



Julie Elder
Administrative Law Judge

July 6, 2020
Decision Dated and Mailed

je/mh