

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

RHONDA L CURRY
8927 – 13TH ST
BALDWIN IA 52207

MCLEOD USA TELECOMMUNICATIONS
C/o JOHN JAY ASSOCIATES INC
PO BOX 182523
COLUMBUS OH 43218-2523

Appeal Number: 04A-UI-04999-AT
OC: 01-18-04 R: 04
Claimant: Appellant (4)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.4-3 – Eligibility for Benefits

STATEMENT OF THE CASE:

Rhonda L. Curry filed a timely appeal from an unemployment insurance decision dated April 27, 2004, reference 03, which denied benefits to her upon a finding that she was not able and available for work. After due notice was issued, a telephone hearing was held on May 24, 2004 with Ms. Curry participating. Exhibit A was admitted into evidence on her behalf. Her former employer, McLeod USA Telecommunications, did not respond to the hearing notice.

FINDINGS OF FACT:

Having heard the testimony of the witness and having examined all of the evidence in the record, the administrative law judge finds: Rhonda L. Curry filed a claim for unemployment

insurance benefits effective January 18, 2004. From October 1, 2002 through September 30, 2003, the period on which her benefits were computed, Ms. Curry was a full-time employee. From January 6, 2004 until Thursday, April 22, 2004, she was restricted by her physician to working no more than 20 hours per week.

REASONING AND CONCLUSIONS OF LAW:

The question is whether Ms. Curry is eligible for unemployment insurance benefits. The administrative law judge concludes that she is eligible effective April 25, 2004.

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".

In order to be considered available for work, an individual must be available to the extent that he or she was available for work during the individual's base period upon which present benefits are computed. See 871 IAC 24.22(2)a. The evidence in this record establishes that Ms. Curry was not available for full-time work until late in the week which ended April 24, 2004. Thus, the administrative law judge concludes that she meets the eligibility requirement of being available for work as of Sunday, April 25, 2004.

DECISION:

The unemployment insurance decision dated April 27, 2004, reference 03, is modified. Benefits are withheld from January 18, 2004 through April 24, 2004. The claimant is entitled to receive unemployment insurance benefits thereafter, provided she is otherwise eligible.

tjc/b