

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**STEPHANIE M MADDEN**  
Claimant

**APPEAL 16A-UI-05652-CL-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**EGS CUSTOMER CARE INC**  
Employer

**OC: 05/01/16  
Claimant: Appellant (2)**

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Iowa Code § 96.4(3) – Ability to and Availability for Work  
Iowa Admin. Code r. 871-24.22(1) – Able to Work - Illness, Injury, or Pregnancy  
Iowa Admin. Code r. 871-24.23(35) – Availability Disqualifications

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the May 17, 2016 (reference 02) unemployment insurance decision that found her unable to work due to illness as of May 1, 2016. The parties were properly notified about the hearing. A telephone hearing was held on June 6, 2016. Claimant participated. Employer did not participate.

**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 previously employed as a customer service representative for employer. Claimant was involuntary separated from employment. A May 17, 2016 (reference 01) decision found claimant qualified for benefits based on the separation. This decision has become final.

Claimant underwent surgery on April 4, 2016, for an ongoing medical condition. Claimant was released to perform light duty work on April 18, 2016. Claimant would have been able to perform her job duties as a customer service representative with these restrictions had she still been employed. On May 31, 2016, claimant was released to perform work with no restrictions.

**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 May 1, 2016.

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

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 could have performed her customer service duties even with a light duty restriction had employer not already severed the employment relationship. Thus, claimant has established her ability to work as of May 1, 2016.

**DECISION:**

The May 17, 2016 (reference 02) unemployment insurance decision is reversed. The claimant is able to work and available for work effective May 1, 2016. Benefits are allowed, provided she is otherwise eligible.

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Christine A. Louis  
Administrative Law Judge  
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Decision Dated and Mailed

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