

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

BRENDA WILLIAMS
Claimant

**BETTENDORF HEALTHCARE
MANAGEMENT**
Employer

APPEAL 18A-UI-10448-NM-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 09/02/18
Claimant: Appellant (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 claimant filed an appeal from the October 15, 2018, (reference 01) unemployment insurance decision that denied benefits based upon a determination that she was not available for work from September 2, 2018 through September 29, 2018. The parties were properly notified about the hearing. A telephone hearing was held on November 2, 2018. Claimant participated and testified. Employer did not participate.

ISSUE:

Was the claimant able to work and available for work from September 2, 2018 through September 29, 2018?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: On July 30, 2018, claimant's husband became extremely ill due to complications from a heart condition. He was rushed to University of Iowa Hospital where he was treated. Upon being discharged claimant was told that she would need to be specially trained on how to care for her husband, as he would need round the clock care from her, 24 hours a day, seven days a week. Claimant's husband has been going through therapy and on-going treatment, but she is still required to be at home with him at all times. Because of this requirement claimant is unavailable for work.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant was not able to work and available for work for the period in question.

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(2) 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.

(2) Available for work. The availability requirement is satisfied when an individual is willing, able, and ready to accept suitable work which the individual does not have good cause to refuse, that is, the individual is genuinely attached to the labor market. Since, under unemployment insurance laws, it is the availability of an individual that is required to be tested, the labor market must be described in terms of the individual. A labor market for an individual means a market for the type of service which the individual offers in the geographical area in which the individual offers the service. Market in that sense does not mean that job vacancies must exist; the purpose of unemployment insurance is to compensate for lack of job vacancies. It means only that the type of services which an individual is offering is generally performed in the geographical area in which the individual is offering the services.

Iowa Admin. Code r. 871-24.23 provides:

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

(16) Where availability for work is unduly limited because a claimant is not willing to work during the hours in which suitable work for the claimant is available.

...

(27) Failure to report on a claim that a claimant made any effort to find employment will make a claimant ineligible for benefits during the period. Mere registration at the workforce development center does not establish that a claimant is able and available for suitable work. It is essential that such claimant must actively and earnestly seek work.

An individual claiming benefits has the burden of proof that she is be able to work, available for work, and earnestly and actively seeking work. Iowa Admin. Code r. 871-24.22. Since July 30, 2018 claimant has been and is currently unavailable and not looking for work because she needs to provide round the clock care for her husband. By this inaction she has not established that she is genuinely attached to the labor market. Accordingly, she is not eligible for unemployment insurance benefits. At such point where claimant's husband's medical condition has changed and she is available for work, she should report that information to her local Iowa Workforce Development office.

DECISION:

The October 15, 2018, (reference 01) unemployment insurance decision is affirmed. The claimant was not able to work and available for work from September 2, 2018 through September 29, 2018. Benefits are withheld.

Nicole Merrill
Administrative Law Judge

Decision Dated and Mailed

nm/rvs