

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

**PAMELA G THOMAS**  
Claimant

**APPEAL NO: 14A-UI-07623-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 04/13/14**  
**Claimant: Appellant (1)**

Iowa Code § 96.4(3) – Ability to and Availability for Work

**PROCEDURAL STATEMENT OF THE CASE:**

The claimant appealed a representative's June 27, 2014 determination (reference 03) that held her eligible to receive benefits as of April 13, 2014. The claimant appealed because a summary letter informed her she was ineligible based on a May 16, 2014 determination (reference 02) as of April 13, 2014, even though the June 27 determination addressed the same time and issue.

The claimant participated at the August 18 hearing with her representative, Jim Hamilton. Based on the evidence, the claimant's arguments, and the law, the administrative law judge finds the claimant eligible to receive benefits as of April 13, 2014.

**ISSUE:**

As of April 13, 2014, is the claimant able to and available for work and eligible to receive benefits?

**FINDINGS OF FACT:**

The claimant established a claim for benefits during the week of April 13, 2014. The claimant appealed a May 1 determination that held she was not qualified to receive benefits because her employment separation was for disqualifying reasons. An administrative law judge held a hearing on May 27, 2014, reversed the May 1 determination on June 6, 2014.

Another determination was issued on May 16, 2014. This determination held the claimant ineligible to receive benefits as of April 13, 2014, because she was unable to work. On June 27, 2014, reference 03 was mailed to the claimant and held her eligible to receive benefits as of April 13, 2014, because she was able to and available for work. The claimant appealed the June 27 favorable determination because even though the June 27 determination held her eligible, the Department did not pay her any benefits.

Since April 13, 2014, the claimant has filed claims for the weeks ending April 19 through August 16. She has not received any benefits for these weeks. The only work restriction the claimant has is that if she has a desk job it must be ergonomically correct for the claimant to

work at. The claimant had been working part time and she is looking for part-time employment in areas she has had experience performing. Since April 13, 2014, the claimant has made at least two job contacts each week she has filed a weekly claim.

Some weeks, the claimant has had a doctor's appointment or procedures, but her appointment and procedures did not involve a majority of the week, only one or two days.

**REASONING AND CONCLUSIONS OF LAW:**

The hearing notice indicates there is a timeliness of appeal issue because the appeal was set up for the May 16, 2014 determination or reference 02. Since the June 27, 2014 determination (reference 03) held the claimant eligible to receive benefits as of April 13, 2014, based on the claimant's availability, the June 27, 2014 determination effectively opened the door for the claimant to appeal. It could be argued the June 27 determination amended the May 16, 2014 determination. Since the claimant has not been paid even though the claimant's employment separation does not disqualify her from receiving benefits and the June 27 determination holds her eligible to receive benefits, testimony was taken concerning her availability to receive benefits as of April 13, 2014.

Each week a claimant files a claim for benefits, she must be able to and available for work. Iowa Code § 96.4(3). Based on the claimant's August 18 testimony, she established she was able to and available for work as of April 13, 2014. The claimant's testimony is not refuted. If a Department representative had participated at the hearing, the outcome may have been different, but this decision must be based only on evidence presented during the hearing. Therefore, as of April 13, 2014, the claimant is eligible to receive benefits.

**DECISION:**

The representative's June 27, 2014 determination (reference 03) is affirmed and amends the May 16, 2014 determination. As of April 13, 2014, the claimant is available for work and eligible to receive benefits.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/pjs