

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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**ALEXANDRA DUBALL**  
Claimant

**APPEAL 20A-UI-02794-AD-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 04/07/19  
Claimant: Appellant (2)**

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Iowa Code § 96.4(3) – Ability to and Availability for Work  
Iowa Code § 96.3(7) - Recovery of Benefit Overpayment

**STATEMENT OF THE CASE:**

On April 1, 2020, Alexandra Duball (claimant) filed an appeal from the March 27, 2020 (reference 02) unemployment insurance decision that found she was not eligible for benefits from March 8, 2020 through March 14, 2020.

A telephone hearing was held on May 4, 2020. The parties were properly notified of the hearing. The claimant participated personally. Official notice was taken of the administrative record.

**ISSUES:**

Is the claimant able to and available for work?

Was the claimant overpaid benefits?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds:

Claimant was hospitalized from March 7 to March 10 for the birth of her child. Claimant was released on March 10. Prior to that claimant had no restrictions on working. She was physically able to work after March 10.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the March 27, 2020 (reference 02) unemployment insurance decision that found claimant not eligible for benefits from March 8, 2020 through March 14, 2020 is REVERSED.

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(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.

To be able to work, "[a]n 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." *Sierra v. Employment Appeal Board*, 508 N.W.2d 719, 721 (Iowa 1993); *Geiken v. Lutheran Home for the Aged*, 468 N.W.2d 223 (Iowa 1991); Iowa Admin. Code r. 871-24.22(1). "An evaluation of an individual's ability to work for the purposes of determining that individual's eligibility for unemployment benefits must necessarily take into consideration the economic and legal forces at work in the general labor market in which the individual resides." *Sierra* at 723. The court in *Gilmore v. Empl. Appeal Bd.*, 695 N.W.2d 44 (Iowa Ct. App. 2004) noted that "[i]nsofar as the Employment Security Law is not designed to provide health and disability insurance, only those employees who experience illness-induced separations that can fairly be attributed to the employer are properly eligible for unemployment benefits." *White v. Emp't Appeal Bd.*, 487 N.W.2d 342, 345 (Iowa 1992) (citing *Butts v. Iowa Dep't of Job Serv.*, 328 N.W.2d 515, 517 (Iowa 1983)).

Claimant was hospitalized from March 7 to March 10 for the birth of her child. Claimant was released on March 10. Prior to that claimant had no restrictions on working. She was physically able to work after March 10. Claimant was therefore able to and available for work for the majority of the benefit week ending March 14, 2020 (March 11, 12, 13, and 14). Because claimant was

able to and available for work for the majority of the benefit week ending March 14, she is eligible for benefits that week, provided all other eligibility requirements were met.

Because the administrative law judge finds claimant is able to and available for work during the week in question, the overpayment issue need not be addressed.

**DECISION:**

The March 27, 2020 (reference 02) unemployment insurance decision that found claimant not eligible for benefits from March 8, 2020 through March 14, 2020 is REVERSED. Claimant is able to and available for work for the benefit week ending March 14, 2020. Benefits are allowed, provided she is otherwise eligible.



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May 11, 2020  
Decision Dated and Mailed

abd/scn