

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CHRISTY L MENDOZA
Claimant

APPEAL NO. 12A-UI-02734-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 02/05/12
Claimant: Appellant (1)

Section 96.4-3 – Able and Available
871 IAC 24.23(1) – Unable to Work/Illness or Injury
871 IAC 26.8(5) – Decision on the Record

STATEMENT OF THE CASE:

The claimant appealed from a representative's decision dated March 9, 2012, reference 01, that held she was unable to perform work due to injury as of February 5, 2012, and which denied benefits. A hearing was scheduled for April 4, 2012. The claimant did not participate

ISSUE:

The issue is whether claimant is able and available to work.

FINDINGS OF FACT:

The administrative law judge, having considered the evidence in the record, finds that: The claimant suffered an injury where the medical treatment involved putting a support boot on her foot. Claimant advised the department she does not expect to be released for work until April 2, 2012.

Claimant failed to respond to the hearing notice.

REASONING AND CONCLUSIONS OF LAW:

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".

871 IAC 24.23(1) provides:

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

(1) An individual who is ill and presently not able to perform work due to illness.

The administrative law judge concludes the claimant is not eligible for benefits effective February 5, 2012, because she is unable to perform work due to injury.

When the claimant receives a full medical release to return to work, if she remains unemployed, she may re-file for benefits by providing proof she is able to work.

DECISION:

The decision of the representative dated March 9, 2012, reference 01, is affirmed. The claimant is not eligible for benefits effective February 5, 2012, because she is unable to work.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/kjw