

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**WENDY L MASSEY**  
Claimant

**IMMANUEL**  
Employer

**APPEAL 20A-UI-06517-AW-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 04/05/20**  
**Claimant: Respondent (1)**

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

**STATEMENT OF THE CASE:**

Employer filed an appeal from the June 8, 2020 (reference 01) unemployment insurance decision that allowed benefits. The parties were properly notified of the hearing. A telephone hearing was held on July 15, 2020, at 11:05 a.m. Claimant participated with her attorney Nathaniel Staudt. Employer participated through Thomas Kuiper, Hearing Representative, and Danielle Richardson, Human Resources Business Partner. Claimant's Exhibits A – D were admitted. Employer's Exhibits 1 – 9 were admitted. Official notice was taken of the administrative record.

**ISSUE:**

Whether claimant is 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 injured at work on March 16, 2020. Claimant sought medical treatment. A physician released claimant to return to work with the following restrictions: no lifting greater than 10 pounds, no bending and no twisting. Claimant can perform administrative work within these restrictions and has experience as a receptionist. Claimant has been able to and available for work since filing her initial claim effective April 5, 2020.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant is able to and available for work. Benefits are allowed, provided claimant is otherwise eligible.

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.

Claimant identified gainful employment that she is physically able to perform and in which she has experience. Claimant has met her burden of proving that she is able to work. Accordingly, claimant is eligible for unemployment insurance benefits. Benefits are allowed provided claimant is otherwise eligible.

**DECISION:**

The June 8, 2020 (reference 01) unemployment insurance decision is affirmed. Claimant is able to and available for work. Benefits are allowed provided claimant is otherwise eligible.



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July 28, 2020  
Decision Dated and Mailed

acw/mh