

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**PATIENCE S TARLESSON**  
Claimant

**APPEAL 15A-UI-06114-DL-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 02/08/15  
Claimant: Appellant (4)**

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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 May 21, 2015, (reference 04), unemployment insurance decision that denied benefits based upon not being able to or available for work. After due notice was issued, a telephone conference hearing was scheduled to be held on July 8, 2015. Claimant participated.

**ISSUE:**

Is the claimant able to and available for work effective April 26, 2015?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: She was separated from Peopleworks Staffing on April 21, 2015, and was able to and available to work until Saturday, May 2, 2015, when she delivered her baby and had surgery. Her doctor kept her off work through June 29, 2015. She returned to and offered her services at Peopleworks but there was no work available. She has been searching for work since then but has not reopened her claim. She received \$209.00 in gross unemployment insurance benefits for each of the weeks ending May 2 and May 9, 2015.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes that the claimant is not able to work and available for work from May 3, 2015, to June 27, 2015, because of medical restrictions. She was able to work the majority of the week ending May 2, 2015, and is able to work and available for work the majority of the week effective June 28, 2015.

Iowa Code § 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 § 96.19, subsection 38, paragraph "b", unnumbered paragraph 1, or temporarily unemployed as defined in § 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 § 96.5, subsection 3 are waived if the individual is not disqualified for benefits under § 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(35) provides:

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

(35) Where the claimant is not able to work and is under the care of a medical practitioner and has not been released as being able to work.

An individual claiming benefits must be able to work, available for work, and if unemployed, actively and earnestly seeking work. The claimant is not able to work and available for work from May 3, 2015, to June 27, 2015, because of medical restrictions. She was able to work the majority of the week ending May 2, 2015, and is able to work and available for work the majority of the week effective June 28, 2015, and forward.

**DECISION:**

The May 21, 2015, (reference 04) unemployment insurance decision is modified in favor of the appellant. The claimant is not able to work and available for work from May 3, 2015, to June 27, 2015. She was able to work the majority of the week ending May 2, 2015, and is able to work and available for work the majority of the week effective June 28, 2015, and benefits are allowed as of that date, provided she is otherwise eligible.

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Dévon M. Lewis  
Administrative Law Judge

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Decision Dated and Mailed

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