

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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**TERRY L COON**  
Claimant

**APPEAL 15A-UI-08176-H2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 05/24/15  
Claimant: Appellant (2)**

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Iowa Code § 96.4(3) – Able and Available

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the July 14, 2015, (reference 04), unemployment insurance decision that denied benefits. After due notice was issued, a telephone conference hearing was held on August 20, 2015. Claimant participated.

While an alleged employer was listed on the hearing notice, subsequent agency action has determined that the claimant was not an employee of CAB's Inc., thus they did not participate in the hearing.

**ISSUE:**

Was the claimant able to and available for work effective June 14, 2015?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was restricted from driving by his treating medical provider on May 26. He can perform other work that does not require him to drive. His wife is able to take him to and from work. His medical provider has confirmed that while the claimant cannot drive he is able to work. His updated medical information was submitted to the agency in July 2015 and he was determined to be able to and available at that time. His restrictions have remained consistent. The claimant's last job was a parts delivery driver.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes that the claimant is able to work and available for work.

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(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.

While claimant cannot drive, he is able to perform some work and does have transportation to get to and from work. Thus, the administrative law judge concludes the claimant is able to and available for work effective June 14, 2015. Accordingly, benefits are allowed.

**DECISION:**

The July 14, 2015, reference 04, decision is reversed. The claimant is able to work and available for work effective June 14, 2015. Benefits are allowed.

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Teresa K. Hillary  
Administrative Law Judge

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Decision Dated and Mailed

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