

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JACOB WAL
Claimant

APPEAL NO: 12A-UI-09747-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CENTRAL IOWA HOSPITAL CORP
Employer

OC: 07/15/12
Claimant: Respondent (2)

Iowa Code § 96.4-3 - Able and Available for Work

STATEMENT OF THE CASE:

Central Iowa Hospital Corporation (employer) appealed an unemployment insurance decision dated August 7, 2012, reference 02, which held that Jacob Wal (claimant) was eligible for unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on September 6, 2012. The claimant participated in the hearing. Magdy Salama participated as the Arabic interpreter on behalf of the claimant. The employer participated through Amanda Banks, Human Resources Business partner. Employer's Exhibit One was admitted into evidence. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

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

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was employed as a full-time food service aide from March 14, 2001 through his last day of work on January 17, 2012. He could not work beyond that date due to medical reasons. The employer discharged him on July 17, 2012 because he was not medically able to return to work. No medical information was provided and the claimant testified he is still under medical restrictions but the extent of those restrictions is unknown. He did not provide any information as to what type of work he could perform which would be within his medical restrictions.

The claimant filed a claim for unemployment insurance benefits effective July 15, 2012 but has not received benefits after the separation from employment.

REASONING AND CONCLUSIONS OF LAW:

The issue to be determined is whether the claimant is able and available for work. In order for an individual to be eligible to receive unemployment insurance benefits, the evidence in the

record must establish that he is able to work, available for work, and earnestly and actively seeking work. See Iowa Code § 96.4(3) and 871 IAC 24.22. An individual must be physically and mentally able to work in some gainful employment, not necessarily in the individual's customary occupation, but that which is engaged in by others as a means of livelihood. 871 IAC 24.22(1). 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. See 871 IAC 24.22(1)(a).

The claimant has the burden of proof in establishing his ability and availability for work. *Davoren v. Iowa Employment Security Commission*, 277 N.W.2d 602 (Iowa 1979). He is under some type of medical restrictions. The claimant failed to provide any medical documentation and did not offer any testimony as to the type of work he could perform which would be within his medical restrictions. Consequently, he does not meet the availability requirements of the law and benefits are denied.

DECISION:

The unemployment insurance decision dated August 7, 2012, reference 02, is reversed. The claimant does not meet the availability requirements of the law and benefits are denied. There is no overpayment as a result of this decision.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/css