

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

VALERIE HOPKINS

Claimant

APPEAL NO: 09A-UI-15824-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ULTIMATE NURSING SERVICES OF IOWA

Employer

OC: 06/21/09

Claimant: Appellant (2)

Iowa Code § 96.4-3 - Able and Available for Work
871 IAC 24.39(2) - Department Approved Training (DAT)

STATEMENT OF THE CASE:

Valerie Hopkins (claimant) appealed an unemployment insurance decision dated October 21, 2009, reference 02, which held that she was not eligible for unemployment insurance benefits because she is limiting her availability to work. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on November 24, 2009. The claimant participated in the hearing. The employer provided a telephone number but was not available when that number was called for the hearing, and therefore, did not participate. The issue of whether the claimant was able and available to work was inadvertently left off the hearing notice. The claimant waived her right to a formal notice of these issues so that they could be addressed in the hearing today. Based on the evidence, the arguments of the party, 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: In a decision dated October 7, 2009, the claimant's request for Department Approved Training (DAT) was allowed. She was approved for training status from September 6, 2009 to December 26, 2009.

REASONING AND CONCLUSIONS OF LAW:

The issue to be determined is whether the claimant is able and available for work. Before a claimant is considered eligible to receive weekly unemployment insurance benefits, she must be able and available to work and must make an active search for work. Iowa Code § 96.4-3. The administrative rule states an individual shall be ineligible for benefits for any period during which the department finds the individual failed to make an earnest and active search for work. An individual must make a sincere effort to find a job. 871 IAC 24.22(3). However, while attending

an approved training course, the claimant does not need to be available for work or actively seeking work. After completion of the department-approved training, the claimant must be able to work and actively search for work. 871 IAC 24.39(2).

As long as claimant remains eligible for DAT, the requirements to be able and available for work and to make weekly work searches are waived pursuant to 871 IAC 24.39(2). The employer's account shall not be charged for benefits paid during claimant's eligibility for DAT. Accordingly, benefits are allowed as of September 6, 2009.

DECISION:

The unemployment insurance decision dated October 21, 2009, reference 02, is reversed. The ability to work and availability for work requirement is waived while the claimant is eligible for DAT. Benefits are allowed effective September 6, 2009. Employer account number 011390 shall not be charged while claimant is in DAT eligible status.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/css