

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ELIZA M DURRAH**

Claimant

**APPEAL NO: 13A-UI-06853-S2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**STONEHILL CARE CENTER  
STONEHILL FRANCISCAN SERVICES**  
Employer

**OC: 05/05/13  
Claimant: Appellant (2R)**

Section 96.4-3 – Able and Available

**STATEMENT OF THE CASE:**

Eliza Durrah (claimant) appealed a representative's May 30, 2013 decision (reference 01) that concluded she was not eligible to receive unemployment insurance benefits because she was unable to work with Stonehill Care Center (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for July 15, 2013. The claimant was represented by Joe Ferrentino, Attorney at Law, and participated personally. The employer participated by Beth, Schmitt, Human Resources Director, and Jane Wills, Director of Nursing. The claimant offered and Exhibit A was received into evidence.

**ISSUE:**

The issue is whether the claimant is able and available for 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 worked for the employer from September 28, 2011, to April 21, 2013, as a part-time certified nursing assistant. The claimant left a message for the employer indicating she had restrictions due to her pregnancy and she wondered if she should report to work. The employer called the claimant back and discussed the claimant's situation with her. The employer told the claimant she could apply for family medical leave because the employer did not have work for the claimant with those restrictions. The employer told the claimant she could pick up the paperwork. On April 23, 2013, the claimant notified the employer she was in the hospital and would get the leave paperwork when she was released. On April 27, 2013, the claimant called and spoke to a supervisor stating she was unable to work due to restrictions. The claimant is still under a doctor's restrictions due to pregnancy.

**REASONING AND CONCLUSIONS OF LAW:**

The administrative law judge concludes the claimant is able and available for work.

871 IAC 24.23(1) provides:

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

(1) An individual who is ill and presently not able to perform work due to illness.

When an employee is ill and unable to perform work due to that illness, she is considered to be unavailable for work. The claimant was released to return to work with restrictions by her physician. She is considered to be available for work because her physician stated she was able and available for work. The claimant is not disqualified from receiving unemployment insurance benefits.

The issue of the claimant's separation from employment is remanded for determination.

**DECISION:**

The representative's May 30, 2013 decision (reference 01) is reversed. The claimant is qualified to receive unemployment insurance benefits because she is able for work. The issue of the claimant's separation from employment is remanded for determination.

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Beth A. Scheetz  
Administrative Law Judge

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Decision Dated and Mailed

bas/css