

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**WENDY P FARMER**  
Claimant

**APPEAL NO. 10A-UI-14816-VST**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**ALLEN MEMORIAL HOSPITAL**  
Employer

**OC: 11/22/09**  
**Claimant: Appellant (2)**

Section 96.19-38-b - Eligibility for Partial Unemployment Insurance Benefits  
Section 96.4-3 - Able and Available

**STATEMENT OF THE CASE:**

Claimant filed an appeal from a decision of a representative dated October 26, 2010, reference 02, which held claimant ineligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on December 14, 2010. Claimant participated. Employer participated by Abby Meester, human resources business partner. The record consists of the testimony of Wendy Farmer and the testimony of Abby Meester.

**ISSUE:**

Is the claimant employed by the employer for less than her usual hours and wages even though she remains able and available for work, and is she therefore eligible for partial unemployment insurance benefits?

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony of the witnesses and having considered all of the evidence in the record, makes the following findings of fact:

The claimant has been employed by Allen Hospital as a certified nursing assistant since November 17, 1997. She is listed as a full-time employee although she does not work full-time hours. Full-time employment is considered to 40 hours per week.

The claimant is assigned to what is known as the resource pool. She has scheduled hours but she is also on call. If she actually comes to work, she is paid \$15.82 per hour. If she is on call but is not asked to come to work, she is paid either \$2.25 per hour or \$3.25 per hour, depending on when she is on call.

In June 2010, the claimant averaged between 54 hours and 75 hours per pay period, which is a two-week period. In July 2010 and August 2010, she worked between 54 and 67 hours per pay period. For September 2010, she has worked only 31 to 55 hours every two weeks.

**REASONING AND CONCLUSIONS OF LAW:**

The unemployment insurance law provides that a claimant is deemed partially unemployed if she is not employed at her usual hours and wages and earns less than her weekly benefit amount plus \$15.00 in other employment. Iowa Code section 96.19-38-b.

Beginning on or about September 18, 2010, there have been weeks in which the employer was not providing the claimant with substantially the same employment as it provided during her base period. Consequently, the claimant is qualified to receive partial unemployment insurance benefits upon the filing of her claim effective September 18, 2010, provided she was otherwise eligible. In order to be otherwise eligible, the claimant must remain available for work on the same basis as when she was previously working and earning the wage credits on which her unemployment insurance benefits are based. Iowa Code section 96.4-3; 871 IAC 24.22(2)(a). She must also report all wages attributable to weeks in which she files weekly claims.

**DECISION:**

The decision of the representative dated October 26, 2010, reference 02, is reversed. The claimant is eligible for partial unemployment insurance benefits beginning September 18, 2010.

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Vicki L. Seeck  
Administrative Law Judge

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Decision Dated and Mailed

vls/pjs