

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**CHRISTINA G SANDERSON**  
Claimant

**APPEAL NO: 11A-UI-00396-ST**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**MERCY MEDICAL CENTER**  
Employer

**OC: 10/31/10**  
**Claimant: Appellant (4-R)**

Section 96.4-3 – Able and Available  
Section 96.4-6a – Division Approved Training (DAT)

**STATEMENT OF THE CASE:**

The claimant appealed a department decision dated January 5, 2011, reference 01, that held she was not eligible for benefits October 31, 2010, because she was still employer in her part-time job. A telephone hearing was held on February 15, 2011. The claimant participated. The employer did not participate.

**ISSUE:**

Whether the claimant is able and available for work.

**FINDINGS OF FACT:**

The administrative law judge having heard the testimony of the witness, and having considered the evidence in the record, finds: The claimant has worked for the employer as a part-time or PRN employee in different capacities from July 15, 2003 to the present. Most recently the claimant has been working as a part-time secretary while attending a paralegal education program at Kirkwood Community College.

The department issued a decision dated September 8, 2010 that granted claimant division approved training for the period from August 22, 2010 through December 18, 2010. The department rule and state statute provides claimant does not have to work, search for work or otherwise be available for work while in training. The claimant chose to continue her part-time job with the employer while going to school.

More recently, the department issued a decision on January 6, 2011 that denied claimant a training extension benefit. The claimant has completed the educational portion of her paralegal program and she is searching for full-time work while trying to arrange an internship.

The employer was not available when called for the hearing.

## REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 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 section 96.19, subsection 38, paragraph "b", unnumbered paragraph 1, or temporarily unemployed as defined in section 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 section 96.5, subsection 3 are waived if the individual is not disqualified for benefits under section 96.5, subsection 1, paragraph "h".

Iowa Code section 96.4-6-a-b provides:

6. a. An otherwise eligible individual shall not be denied benefits for any week because the individual is in training with the approval of the director, nor shall the individual be denied benefits with respect to any week in which the individual is in training with the approval of the director by reason of the application of the provision in subsection 3 of this section relating to availability for work, and an active search for work or the provision of section 96.5, subsection 3, relating to failure to apply for or a refusal to accept suitable work. However, an employer's account shall not be charged with benefits so paid.

b. An otherwise eligible individual shall not be denied benefits for a week because the individual is in training approved under 19 U.S.C. § 2296(a), as amended by section 2506 of the federal Omnibus Budget Reconciliation Act of 1981, because the individual leaves work which is not suitable employment to enter the approved training, or because of the application of subsection 3 of this section or section 96.5, subsection 3, or a federal unemployment insurance law administered by the department relating to availability for work, active search for work, or refusal to accept work.

For purposes of this paragraph, "suitable employment" means work of a substantially equal or higher skill level than an individual's past adversely affected employment, as defined in 19 U.S.C. § 2319(l), if weekly wages for the work are not less than eighty percent of the individual's average weekly wage.

The administrative law judge concludes that the claimant is eligible for benefits effective October 31, 2010, as she is not required to satisfy the availability requirements while participating in Department Approved Training (DAT)

While the claimant has been a long-term part-time or PRN status employee for the employer, at the time she files her recent claim she is covered by DAT. She is not required to search for work or be available to work, and no employer account is charged for benefits paid to her.

The claimant was warned that the department has denied any extended training benefit by a decision dated January 6, 2011, and she is now required to meet the availability requirements of the law. She is continuing her part-time employment while looking for full-time work.

**DECISION:**

The department decision dated January 5, 2011, reference 01, is modified. The claimant is eligible for benefits during the period of her department approved training that extends from the date of her most recent claim, effective October 30, 2010 to December 18, 2010. No employer account is charged during the DAT period. The availability issue after the expiration of DAT is remanded to Claims for fact finding.

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Randy L. Stephenson  
Administrative Law Judge

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Decision Dated and Mailed

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