

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

RAFAELLA KARPATS
Claimant

APPEAL NO: 06A-UI-09006-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

MERCY MEDICAL CENTER
Employer

**OC: 07/23/06 R: 03
Claimant: Appellant (1)**

Section 96.4-3 - Able and Available for Work

STATEMENT OF THE CASE:

Rafaella Karpats (claimant) appealed an unemployment insurance decision dated August 30, 2006, reference 01, which held that she was not eligible for unemployment insurance benefits because she was limiting her availability to work for Mercy Medical Center (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on September 25, 2006. The claimant participated in the hearing. The employer participated through Jerry Trumper, Director of Human Resources. 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 meets the availability requirements of the law in order to receive unemployment insurance benefits?

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 hired as a full-time secretary on June 13, 2005. She voluntarily reduced her hours to part-time on January 8, 2006 when she started school. The claimant's availability to work is now limited as the result of her school schedule.

REASONING AND CONCLUSIONS OF LAW:

The issue to be determined is whether the claimant is able and available for work. For the reasons that follow, the administrative law judge concludes the claimant is not available to work.

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".

871 IAC 24.23(5) provides:

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

(5) Full-time students devoting the major portion of their time and efforts to their studies are deemed to have no reasonable expectancy of securing employment except if the students are available to the same degree and to the same extent as they accrued wage credits they will meet the eligibility requirements of the law.

The claimant has the burden of proof in establishing her ability and availability for work. Davoren v. Iowa Employment Security Commission, 277 N.W.2d 602 (Iowa 1979). Her work hours have been reduced voluntarily because she is attending school. The claimant does not meet the availability requirements of the law and is not eligible to receive unemployment insurance benefits.

DECISION:

The unemployment insurance decision dated August 30, 2006, reference 01, is affirmed. The claimant is not eligible to receive unemployment insurance benefits because she does not meet the availability requirements of the law.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/pjs