

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ALLISON MCGAHA
Claimant

APPEAL NO. 10A-UI-14127-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 03/21/10
Claimant: Appellant (2)

Iowa Code § 96.4-3 - Able and Available for Work
Iowa Code § 96.4(6)(a) – Department-Approved Training

STATEMENT OF THE CASE:

Allison McGaha (claimant) appealed an unemployment insurance decision dated October 12, 2010, reference 07, which held that she was not eligible for unemployment insurance benefits because she is not able to work due to an injury. Due notice was issued scheduling the matter for a telephone hearing to be held Saturday, November 20, 2010. Because a decision fully favorable to the party could be made based on the record as it stood, a hearing was deemed unnecessary. Based on the evidence 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 for work?

FINDINGS OF FACT:

The administrative law judge, having reviewed and considered all of the evidence in the record, finds that: In a decision dated July 21, 2010, reference 02, the claimant's request for Department-Approved Training (DAT) was allowed. She was approved for training status from August 29, 2010 to December 18, 2010.

The Agency subsequently issued a decision disqualifying her for benefits because she does not meet the availability requirements of the law.

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.

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). Accordingly, benefits are allowed.

DECISION:

The unemployment insurance decision dated October 12, 2010, reference 07, is reversed. The ability to work and availability for work requirement is waived while the claimant is eligible for DAT. Benefits are allowed as of September 21, 2010, provided she is otherwise eligible.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/kjw