

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JACQUELYN E POGGEMILLER
Claimant

APPEAL NO. 10A-UI-08620-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

GREAT RIVER MEDICALCENTER
Employer

OC: 04/25/10
Claimant: Respondent (4)

Section 96.4-3 – Able and Available
Section 96.4-6-a – Department-Approved Training

STATEMENT OF THE CASE:

The employer appealed a department decision dated June 8, 2010, reference 01, that held the claimant was eligible for benefits effective April 25, 2010, and the employer was not relieved of benefit charges. A telephone hearing was held on August 2, 2010. The claimant participated. Kelly Augustine, HR Generalist, participated for the employer. Official Notice was taken of the employer's appeal documents.

ISSUES:

Whether the claimant is able and available for work.

Whether the employer should be relieved of benefit charges.

FINDINGS OF FACT:

The administrative law judge having heard the testimony of the witnesses and having considered the evidence in the record, finds: The claimant worked for the employer PRN, as needed, on call, from June 1, 2009 through the date of this hearing. The claimant was granted department-approved training by the department from August 16, 2009 thru July 17, 2010 by a series of decisions to attend a college degree program. During the training period, the claimant has been working weekends, as needed.

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 claimant does meet the availability requirements of the law to receive unemployment benefits during the period of her department-approved training.

The department record shows it has issued a series of decisions approving training from August 16, 2009 through July 17, 2010. The claimant is not required to search for work though she has been working a part-time or PRN job for the employer on the weekends.

The administrative law judge further concludes the employer is not charged with benefits paid to the claimant during the period of her training, as provided by law.

DECISION:

The department decision dated June 8, 2010, reference 01, is modified. The claimant is eligible for benefits due to department-approved training and the employer is not charged.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/kjw