

**IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI**

**PAULA J NAGLE
717 – 19TH ST #1
DES MOINES IA 50314**

**CENTRAL IOWA HOSPITAL CORP
ATTN HUMAN RESOURCES
1313 HIGH ST #111
DES MOINES IA 50309-3119**

**JOHN T HEMMINGER
ATTORNEY AT LAW
2454 SW 9TH ST
DES MOINES IA 50315-1904**

**Appeal Number: 04A-UI-11195-CT
OC: 09/19/04 R: 02
Claimant: Appellant (2)**

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319.**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5(1)d – Separation Due to Illness/Injury

STATEMENT OF THE CASE:

Paula Nagle filed an appeal from a representative's decision dated October 8, 2004, reference 01, which denied benefits based on her separation from Central Iowa Hospital Corporation (CIHC). After due notice was issued, a hearing was held by telephone on November 10, 2004. Ms. Nagle participated personally and was represented by John Hemminger, Attorney at Law. Exhibits A and B were admitted on Ms. Nagle's behalf. The employer submitted Exhibit One in lieu of appearance.

FINDINGS OF FACT:

Having heard the testimony of the witness and having reviewed all the evidence in the record, the administrative law judge finds: Ms. Nagle began working for CIHC in October of 1997. She was last employed full time in patient transport and last performed services in March of 2004. In March of 2003, Ms. Nagle sustained a work-related injury to her back. She was released from medical care on June 25, 2003. She re-injured herself on October 8, 2003 and was released from care on November 26, 2003. On January 23, 2004, Ms. Nagle was re-evaluated for her injury and was referred to her personal doctor at that point because the doctor she saw at the employer's initiative felt her condition was not work-related.

On or about March 11, 2004, Ms. Nagle was again seen by the employer's doctor who referred her to her personal doctor. The employer's doctor continued to be of the opinion that the condition was not related to the employment. On March 12, Ms. Nagle presented the employer with information regarding restrictions placed on her by her personal doctor. The restrictions were inconsistent with the demands of her job and, therefore, she was not allowed to resume working. She was placed on short-term disability.

On September 9, 2004, Ms. Nagle presented the employer with a statement from her doctor which indicated she could return to work but could not transport patients uphill. The doctor also indicated that she could not lift or transfer patients without the assistance of another person. Because she still could not perform the essential functions of her job, Ms. Nagle was not allowed to return to work. Since she had exhausted her eligibility for short-term disability payments, the employment was terminated.

Ms. Nagle's doctor is of the opinion that her current condition is an aggravation of the original work-related injury of March 18, 2003. The doctor's opinion was based on a review of his patient notes as well as notes from other doctors who had treated Ms. Nagle over the course of time following the original injury. He also reviewed notes from Iowa Methodist Medical Occupational Medicine and notes from Iowa Methodist Medical Center Emergency Room.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Ms. Nagle was separated from employment for any disqualifying reason. She was off work beginning in March of 2004 because of an injury that prevented her from performing her usual job. She returned to re-offer her services in September when released by her doctor. However, the employer did not have work available that she could perform within her restrictions. Where an individual is off work as a result of a work-related injury, she does not have to be completely recovered from the injury when she re-offers her services in order to receive benefits pursuant to Iowa Code section 96.5(1)d. See Hedges v. Iowa Department of Job Service, 368 N.W.2d 862 (Iowa App. 1985).

The administrative law judge is satisfied that Ms. Nagle's current condition was caused or aggravated by the employment with CIHC. Any conflict in the medical opinions as to whether the condition is work-related is resolved in Ms. Nagle's favor. It is likely that continuing to perform the same job after her injury in March of 2003 could have caused deterioration or aggravation to her condition resulting in her current limitations. For the reasons stated herein, the administrative law judge concludes that Ms. Nagle is entitled to job insurance benefits pursuant to Iowa Code section 96.5(1)d.

DECISION:

The representative's decision dated October 8, 2004, reference 01, is hereby reversed. Ms. Nagle was separated from employment for no disqualifying reason. Benefits are allowed, provided she satisfies all other conditions of eligibility.

cfc/tjc