

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ANDREA R GROSS**  
Claimant

**APPEAL NO. 10A-UI-08922-S2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**REGAL MANORS OF ONAWA INC**  
Employer

**OC: 05/09/10**  
**Claimant: Respondent (2/R)**

Section 96.4-3 – Able and Available

**STATEMENT OF THE CASE:**

Regal Manors of Onawa (employer) appealed a representative's June 15, 2010 decision (reference 01) that concluded Andrea Gross (claimant) was eligible to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for August 9, 2010. The claimant participated personally. The employer participated by Melanie Gottsche, Director of Nursing, and Sarah Haptonstall, Staffing Coordinator. The employer offered and Exhibit One was received into evidence.

**ISSUE:**

The issue is whether the claimant is able and available for work.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and having considered all of the evidence in the record, finds that: The claimant worked for the employer from May 31, 2009, to May 2010, as a full-time certified nursing assistant. In August 2009, the claimant changed her availability because she became a full-time student. The employer offered her work but the claimant declined after May 30, 2010, because she lacked child care or was a full-time student.

**REASONING AND CONCLUSIONS OF LAW:**

The administrative law judge concludes the claimant is not able and available for work.

871 IAC 24.23(5) provides:

(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.

When an employee is a full-time student, she is considered to be unavailable for work. Likewise, when an employee lacks child care, she is considered to be unavailable for work. The claimant is a full-time student and often lacks child care. She is considered to be unavailable for work as of June 1, 2009. The claimant is disqualified from receiving unemployment insurance benefits beginning the week ending June 5, 2010, due to her unavailability for work.

**DECISION:**

The representative's June 15, 2010 decision (reference 01) is reversed. The claimant is disqualified from receiving unemployment insurance benefits starting the week ending June 5, 2010, because she is not available for work with the employer.

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Beth A. Scheetz  
Administrative Law Judge

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Decision Dated and Mailed

bas/kjw