

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

**ANGELIC ABRAHAMSON**  
Claimant

**APPEAL NO. 15A-UI-11587-TN-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**WALGREEN CO**  
Employer

**OC: 09/20/15**  
**Claimant: Appellant (1)**

Section 96.4-3 – Able and Available for Work

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the representative's decision dated October 14, 2015, reference 02, which denied unemployment insurance benefits as of September 20, 2015, finding that the claimant was unduly limiting her availability for work because she did not have adequate childcare arrangements. After due notice was provided, a telephone hearing was held on November 2, 2015. The claimant participated. Although duly notified, the employer did not participate.

**ISSUE:**

At issue in this matter is whether the claimant is able and available for work within the meaning of the Iowa Employment Security Law.

**FINDINGS OF FACT:**

Having considered all of the evidence in the record, the administrative law judge finds: Angelic Abrahamson began full-time employment with the Walgreen Company on August 5, 2014. Ms. Abrahamson accepted employment as a full-time pharmacy technician trainee and was paid \$11.25 per hour. At the time that the claimant made application for employment, she indicated that there were no limitations on the hours or days that she could work.

The claimant was hired to work full time and was assigned to various full-time working hours. Approximately September 2015, Ms. Abrahamson regained custody of her children and limited her working hours with the Walgreen Company because Ms. Abrahamson needed to be available to take her children to school and provide childcare for them in the afternoons. Because of her childcare obligations, Ms. Abrahamson no longer was available to work the full-time hours that she had accepted with the Walgreen Company. After a period of time her employer was no longer able to facilitate the claimant's reduced availability to work and could no longer schedule Ms. Abrahamson around her childcare obligations because Ms. Abrahamson was no longer able to fulfill the full-time hours that she had accepted at the time of hire and the employer was no longer willing to accommodate the hours and times that the claimant was

available. The company offered Ms. Abrahamson the option of remaining employed in a "on-call" status. Ms. Abrahamson agreed to the change.

It is the claimant's position that although she applied for and accepted full-time work indicating no limitations on the hours and days that she could be employed, it was her belief that the employer would be willing to accommodate her in the future if her children were returned.

### **REASONING AND CONCLUSIONS OF LAW:**

The question before the administrative law judge is whether the evidence in the record establishes that Ms. Angelic Abrahamson has been able and available for work within the meaning of the Employment Security Law since establishing a claim for benefits with an effective date of September 20, 2015. It does not.

Iowa Code § 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 § 96.19, subsection 38, paragraph "b", unnumbered paragraph 1, or temporarily unemployed as defined in § 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 § 96.5, subsection 3 are waived if the individual is not disqualified for benefits under § 96.5, subsection 1, paragraph "h".

Iowa Admin. Code r. 871-24.23(26) provides:

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

(26) Where a claimant is still employed in a part-time job at the same hours and wages as contemplated in the original contract for hire and is not working on a reduced workweek basis different from the contract for hire, such claimant cannot be considered partially unemployed.

An otherwise eligible claimant is eligible to receive benefits with respect to any week only if the evidence indicates that the individual is able to work, is available for work, and is earnestly and actively seeking work. Iowa Code section 96.4(3) and 871 IAC 24.22. The claimant bears the burden of establishing that the claimant meets the above requirements. 871 IAC 24.22. To satisfy the ableness requirement, an individual must be physically and mentally able to work in some gainful employment, not necessarily in the individual's customary occupation, but which is engaged in by others as a means of livelihood. To satisfy the availability requirement, an individual must be willing, able and ready to accept suitable work and not place barriers or limitations that unduly limit their availability for work by imposing restrictions on hours, days of work, type of work that they would accept or other factors that unduly limit their availability to seek and accept employment from perspective employers or their current employer.

In the case at hand, it is clear that Ms. Abrahamson was hired to work on a full-time basis and at the time of hire she indicated no limitations on the hours or days of work that she would accept.

After beginning employment with the Walgreen Company, the claimant was assigned to various days and work hour schedules and her full-time employment continued until Ms. Abrahamson was no longer available to work the full-time hours during the times that the employer needed her and work was available because her obligations to provide childcare to her children who had recently been returned to her. Although the employer attempted to accommodate Ms. Abrahamson's varied and limited hours of availability, the claimant's availability limitations prevented her from working the full-time employment the parties had agreed to at the time of hire.

Based upon the evidence in the record and the application of the appropriate law, the administrative law judge concludes that the claimant has not been able and available within the meaning of the Employment Security Law since September 20, 2015, when she established her claim for unemployment insurance benefits and therefore is ineligible for benefits. The record also establishes that the claimant, in addition to her personal childcare obligations, recently agreed to work on an as-needed basis and understood when she accepted that status that there was no guarantee of minimum working hours which would be set only by the employer's needs.

**DECISION:**

The representative's decision dated October 14, 2015, reference 02, is affirmed. The claimant is not able and available for work within the meaning of the Iowa Employment Security Law. Benefits are denied effective September 20, 2015.

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Terence P. Nice  
Administrative Law Judge

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Decision Dated and Mailed

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