

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MICHELLE L MOYER
Claimant

APPEAL NO. 07A-UI-10248-LT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CARE INITIATIVES
Employer

OC: 10/08/06 R: 03
Claimant: Appellant (2)

Iowa Code § 96.4(3) - Able and Available

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the October 31, 2007, reference 03, decision that denied benefits. After due notice was issued, a telephone conference hearing was held on November 26, 2007. Claimant participated. Employer participated through Dorie Brennecke and Patrick Wedmore. Employer's Exhibit 1 was received.

ISSUE:

The issue is whether claimant is able to and available for work effective September 30, 2007.

FINDINGS OF FACT:

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: Claimant was employed full time until June 2006, when her hours were reduced to part time due to a reduction in patient census. She is normally scheduled to work two days per week, five hours per shift, at a rate of pay of \$8.67 per hour. She may also occasionally pick up other shifts for absent employees. Her average weekly wage for this claim year is \$305.22. There were no requests for time off since September 30, 2007. As of the hearing date, there was no new claim on file.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant is able to work and available for work.

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 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".

Since claimant is making herself available to work more than her scheduled ten hours per week, as evidenced by the wages reported in the last month of her claim, and because she has full-time wages in the base period but employer is offering her less work than that, she is entitled to partial benefit calculations. Accordingly, benefits are allowed.

DECISION:

The October 31, 2007, reference 03, decision is reversed. The claimant is able to work and available for work effective September 30, 2007. Benefits are allowed.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

dml/kjw