

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JANET L CAHOY
Claimant

APPEAL NO. 10A-UI-05486-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**CEDAR VALLEY MEDICAL
SPECIALISTS PC**
Employer

OC: 08/02/09
Claimant: Appellant (2)

Section 96.4-3 – Able & Available for Work

STATEMENT OF THE CASE:

Claimant filed a timely appeal from a representative's decision dated April 7, 2010, reference 03, which denied benefits as of March 7, 2010 upon a finding that the claimant was not willing to work the number of hours required in her occupation thus unduly limiting her availability for work. After due notice, a telephone hearing was conducted on May 27, 2010. Claimant participated personally. The employer participated by Ms. Connie Hix, Human Resource Manager.

ISSUE:

The issue is whether the claimant has unduly limited her availability for work.

FINDINGS OF FACT:

Having considered the evidence in the record, the administrative law judge finds: Janet Cahoy began employment with Cedar Valley Medical Specialists, P.C. on October 18, 2004 and continues to be employed at the time of hearing. Ms. Cahoy is employed as a medical transcriptionist assigned to do transcription work for Dr. Clark, one of the physicians in the practice. At the time of hire it was agreed that the claimant would work 32 hours per week.

Due to factors beyond the control of Ms. Cahoy or her employer, the claimant on some weeks was not provided 32 hours of work because the doctor that the claimant was assigned to was absent or did not have transcription work for the claimant. Ms. Cahoy at all times remained able and available to work the 32 hours agreed upon at the time of hire. The claimant has not refused work that was available to her or requested to work fewer than the agreed upon 32 hours per week.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes the claimant is able and available for work and has not unduly limited her availability.

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".

The evidence in the record establishes that the claimant has not limited her availability for work by limiting the hours that she is willing to work in her occupation. The claimant and the employer agreed at the time of hire that Ms. Cahoy would work 32 hours per week and the claimant has been unable to work those hours each week. Fluctuation in working hours, at times, were caused by lack of work being available for Ms. Cahoy because the doctor she was assigned to was not present or did not have transcription work for the claimant that week.

As the evidence in the record does not establish that the claimant has unduly limited her availability, she has met the able and available requirements of the Iowa Employment Security Act and is eligible to receive partial benefits for the weeks claimed, provided she meets all other eligibility requirements.

DECISION:

The representative's decision dated April 7, 2010, reference 03, is reversed. Claimant has not unduly limited her availability. Partial unemployment insurance benefits are allowed as of March 7, 2010, provided the claimant meets all other eligibility requirements of Iowa law.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

pjs/pjs