

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CAROLYN J SWAMBERGER-CASE

Claimant

APPEAL NO: 12A-UI-11498-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

MERCY MEDICAL CENTER-CLINTON INC

Employer

OC: 08/19/12

Claimant: Appellant (1)

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Carolyn J. Swamberger-Case (claimant) appealed a representative's September 18, 2012 decision (reference 02) that concluded she was not qualified to receive unemployment insurance benefits in conjunction with her employment with Mercy Medical Center – Clinton, Inc. (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on October 18, 2012. The claimant participated in the hearing. Diane Grants appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Is the claimant ineligible for unemployment benefits because her claim is based solely on on-call work?

FINDINGS OF FACT:

The claimant filed a claim for unemployment insurance benefits with an effective date of August 19, 2012. The claim was based on her wages paid from April 1, 2011 to March 31, 2012.

The wage credits during the claimant's base period are wages earned from on-call or PRN (*Pro re nata* – commonly used in medicine to mean "as needed") work as a registered nurse for the employer. There are some minor wages (\$232.00) in the fourth quarter 2011 from Clinton County Courthouse, but these wages are not adequate to support a claim for unemployment insurance benefits. The claimant's original employment with the employer had begun on November 11, 2003 and she had worked full-time for the employer until August 14, 2010. Her full-time employment ended as of that time when the claimant was off work on a medical leave of absence. When her FMLA (Family Medical Leave) was exhausted as of that date, the employer did not continue to hold her full-time position available for her, but allowed her to resume employment on the PRN basis. The claimant is rarely directly scheduled by the employer, but frequently picks up hours by agreeing to fill in for other nurses who need to be off work; she is also occasionally called by the employer to fill in for last-minute absences.

REASONING AND CONCLUSIONS OF LAW:

With respect to any week in which unemployment insurance benefits are sought, in order to be eligible the claimant must be able to work, must be available for work, and must be earnestly and actively seeking work. Iowa Code § 96.4-3. Under the unemployment insurance rules, persons whose base period wage credits consist exclusively of wages earned from on-call work, “such as a banquet worker, railway worker, substitute teacher, or any other individual whose work is solely on call” is not considered unemployed under the law. 871 IAC 24(2)i(3). While the claimant’s original employment was not on this on-call basis, this has become her current employment relationship with the employer. Because the claimant’s base period wages are from her employment on an on-call basis, under this rule the claimant is not eligible for unemployment insurance benefits effective August 19, 2012.

DECISION:

The representative’s September 18, 2012 decision (reference 02) is affirmed. The claimant is ineligible to receive unemployment insurance benefits effective August 19, 2012.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/kjw