

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

IEASHIA R MOORE
Claimant

APPEAL NO. 14A-UI-02892-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

CARE INITIATIVES
Employer

OC: 02/09/14
Claimant: Respondent (2)

Iowa Code Section 96.4(3) – Able and Available

STATEMENT OF THE CASE:

Care Initiative (employer) appealed a representative's March 10, 2014, decision (reference 01) that concluded Ieashia Moore (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 held on April 7, 2014. The claimant participated personally. The employer was represented by Marcy Schneider, Hearings Representative, and participated by David Mollenhoff, Human Resources Coordinator, and Lisa Blockus, Dietary Services Manager. The employer offered and Exhibit One was received into evidence.

ISSUE:

The issue is whether the claimant is disqualified for being unavailable for work.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on March 29, 2013, as a part-time dietary aide. She consistently worked 20 hours per week. The claimant left and returned from maternity leave on September 16, 2013. Her doctor's note restricted her to working four-hour shifts or less. The employer complied and the claimant works 14 to 15 hours per week. The claimant has not provided any other doctor's note to change her restrictions. The claimant filed for unemployment insurance benefits with an effective date of February 9, 2014.

REASONING AND CONCLUSIONS OF LAW:

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

871 IAC 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.

The claimant was hired as a part-time worker and is still working part time for the employer. She asked that those part-time hours be changed to accommodate her medical restrictions and the employer complied. The change in hours was initiated by the claimant. She is still employed in a part-time position as was agreed to at the time she was hired.

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. The claimant is a full-time student. She is considered to be unavailable for work. The claimant is disqualified from receiving unemployment insurance benefits beginning February 9, 2014, due to her unavailability for work.

DECISION:

The representative's March 10, 2014, decision (reference 01) is reversed. The claimant is disqualified from receiving unemployment insurance benefits because she was not available for work.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/css