

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TERESA V HOLDEN
Claimant

APPEAL NO. 12A-UI-05186-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

GUARDIAN FAMILY CARE INC
Employer

OC: 04/01/12
Claimant: Appellant (4)

Section 96.4(3) – Able and Available

STATEMENT OF THE CASE:

The claimant, Teresa Holden, filed an appeal from a decision dated April 27, 2012, reference 01. The decision disqualified her from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on May 30, 2012. The claimant participated on her own behalf. The employer, Guardian Family Care (GFC), participated by CEO Beverly Mital.

ISSUE:

The issue is whether the claimant is able and available for work.

FINDINGS OF FACT:

Teresa Holden began employment with GFC June 25, 2010, as a part-time home care giver. The amount of work depends on the number of clients. The distance to be traveled covers an area from Clinton to Davenport, Iowa, some in eastern Illinois and some west of the Mississippi River valley. Care givers are paid 40 cents per mile for any assignment more than 30 miles away.

Ms. Holden filed for unemployment benefits with an effective date of April 1, 2012, when her last assignment ended March 23, 2012. She had no assignments available in April, and at the beginning of May, she no longer had child care. The child care issues were not resolved until Friday, May 25, 2012.

From April 8 through 23, 2012, she lacked reliable transportation to be able to travel to areas where some assignments were available.

REASONING AND CONCLUSIONS OF LAW:

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".

871 IAC 24.23(4) provides:

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

(4) If the means of transportation by an individual was lost from the individual's residence to the area of the individual's usual employment, the individual will be deemed not to have met the availability requirements of the law. However, an individual shall not be disqualified for restricting employability to the area of usual employment. (See subrule 24.24(7).

The claimant was not available during most of the month of April 2012 due to the lack of reliable transportation. She lacked child care from May 8 through 25, 2012. Under the provisions of the above code sections, and 871 IAC 24.23(8), she is not considered able and available for the weeks from April 8 through 21, 2012, and May 6 through 26, 2012, due to lack of child care and reliable transportation.

DECISION:

The representative's decision of April 27, 2012, reference 01, is modified in favor of the appellant. Teresa Holden is ineligible for benefits for the weeks April 8 through 21, 2012, and May 6 through 26, 2012.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/kjw