

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MARY J AULWES**

Claimant

**APPEAL NO. 09A-UI-18802-S2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**PRAIRIE DU CHEIN MEMORIAL**

Employer

**Original Claim: 10/25/09**

**Claimant: Appellant (1)**

Section 96.4-3 – Able and Available

**STATEMENT OF THE CASE:**

Mary Aulwes (claimant) appealed a representative's December 7, 2009 decision (reference 01) that concluded she was not eligible to receive unemployment insurance benefits because she was unable to work with Prairie Du Chein Memorial (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for January 28, 2010. The claimant participated personally. The employer participated by Laurie Hampton, Director of Human Resources, and Ellen Zwirlein, Director of Nursing.

**ISSUE:**

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

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and having considered all of the evidence in the record, finds that: The claimant worked for the employer from June 18, 2008, to the present. The claimant suffered a non-work-related medical condition and requested medical leave on or about September 1, 2009. The claimant filed for unemployment insurance benefits with an effective date of October 25, 2009. The claimant's physician allowed the claimant to return to work with restrictions on October 26, 2009. The claimant could work four hours per day, rarely stand and occasionally sit. The employer had no work with those restrictions. On December 14, 2009, the claimant's physician returned her to work without restriction. The claimant returned to work on December 14, 2009.

**REASONING AND CONCLUSIONS OF LAW:**

The administrative law judge concludes the claimant is not available for work with the employer from October 25 through December 14, 2009.

871 IAC 24.23(1) provides:

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

(1) An individual who is ill and presently not able to perform work due to illness.

When an employee is ill or injured and unable to perform work due to that illness or injury, she is considered to be unavailable for work. The claimant's release to return to work with restrictions on October 26, 2009, was so restrictive that there was no work for someone who could not stand or sit for any length of time. The claimant was released to return to work without restrictions by her physician on December 14, 2009. She is considered to be available for work on December 14, 2009, because her physician stated she was able and available for work. The claimant is disqualified from receiving unemployment insurance benefits from October 25 through December 14, 2009.

**DECISION:**

The representative's December 7, 2009 decision (reference 01) is affirmed. The claimant is disqualified from receiving unemployment insurance benefits because she was not available for work with the employer from October 25 through December 14, 2009.

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Beth A. Scheetz  
Administrative Law Judge

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Decision Dated and Mailed

bas/kjw