

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JENNIFER L TOMLIN**  
Claimant

**APPEAL NO: 10A-UI-17738-ST**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**MONROE CARE CENTER INC**  
Employer

**OC: 11/14/10**  
**Claimant: Appellant (4)**

Section 96.4-3 – Able and Available  
Section 96.4-6-a, b – Division Approved Training

**STATEMENT OF THE CASE:**

The claimant appealed a department decision dated December 22, 2010, reference 01, that held she is not eligible for benefits effective November 14, 2010, because she is limiting her availability for work. A telephone hearing was held on February 9, 2011. The claimant participated. Shelly Beard, Administrator participated for the employer.

**ISSUE:**

Whether the claimant is able and available for work.

**FINDINGS OF FACT:**

The administrative law judge having heard the testimony of the witnesses, and having considered the evidence in the record, finds: The claimant began work for the employer as a C.N.A. on October 31, 2008. The claimant began nursing schooling for an RN degree in November 2009. The department has been continually granting claimant division approved training benefits most recently in a decision dated December 8, 2010 reference 02 for the period from November 21, 2010 to November 12, 2011.

The claimant did reduce her work hours in November 2010 in order to improve her school work.

**REASONING AND CONCLUSIONS OF LAW:**

Iowa Code § 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 administrative law judge concludes that the claimant is eligible for benefits due to department approved training (DAT) that does not require her to work or search for work effective November 14, 2010.

The department issued a decision before the one under review in this matter that claimant is granted DAT for the period from November 21, 2010 to November 12, 2011. The claimant is not subject to the availability requirements of the law, and no employer's account is charged for benefits so paid.

**DECISION:**

The department decision dated December 22, 2010, reference 01, is modified. The claimant is eligible for benefits due to DAT on November 14, 2010, and no employer's account is charged.

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Randy L. Stephenson  
Administrative Law Judge

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Decision Dated and Mailed

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