

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JANINE M WEEKS

Claimant

APPEAL NO. 11A-EUCU-00576-VST

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 05/02/10

Claimant: Appellant (2)

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

The claimant filed an appeal from a representative's decision dated June 29, 2011, reference 03, which held the claimant ineligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on August 1, 2011. Claimant participated. The claimant was represented by Mary Hoefer, attorney at law. The record consists of the testimony of Janine Weeks. Official notice is taken of agency records.

ISSUE:

Whether the claimant is able and available for work.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony of the witness and having considered all of the evidence in the record, makes the following findings of fact:

The claimant established a claim with an original claim date of May 2, 2010. The claimant was terminated on April 30, 2010, from her teacher assistant position with Marion High School. Since her termination, the claimant has attended classes for para-education and to become a certified nursing assistant. The claimant is actively looking for work and is looking primarily for part time work. She is also being assisted by vocational rehabilitation.

REASONING AND CONCLUSIONS OF LAW:

871 IAC 24.22(2) provides:

Benefits eligibility conditions. For an individual to be eligible to receive benefits the department must find that the individual is able to work, available for work, and earnestly and actively seeking work. The individual bears the burden of establishing that the individual is able to work, available for work, and earnestly and actively seeking work.

(2) Available for work. The availability requirement is satisfied when an individual is willing, able, and ready to accept suitable work which the individual does not have good

cause to refuse, that is, the individual is genuinely attached to the labor market. Since, under unemployment insurance laws, it is the availability of an individual that is required to be tested, the labor market must be described in terms of the individual. A labor market for an individual means a market for the type of service which the individual offers in the geographical area in which the individual offers the service. Market in that sense does not mean that job vacancies must exist; the purpose of unemployment insurance is to compensate for lack of job vacancies. It means only that the type of services which an individual is offering is generally performed in the geographical area in which the individual is offering the services.

The representative ruled that the claimant was disqualified as of May 2, 2010, because she was unable to work because of illness. The disqualification was based on a statement the claimant signed on June 28, 2011 which said: "I informed the workforce advisor that because of my health I am unable to work unless I can provide a medical notice and I am able and available for work." The administrative law judge cannot determine from the administrative file why the disqualification went back to May 2, 2010. The claimant was specifically asked about this statement and she said that she was so flustered that she did not know what she was saying. The claimant does have some health problems, but she testified she is capable of working. She is looking for work. Based on the claimant's sworn testimony, the administrative law judge concludes that she is able and available for work.

DECISION:

The representative's decision dated June 29, 2011, reference 03, is reversed. The claimant was able and available for work as of May 2, 2010. Benefits are allowed if the claimant meets all other eligibility requirements.

Vicki L. Seeck
Administrative Law Judge

Decision Dated and Mailed

vls/kjw