

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

HEATHER Y WHEELock
Claimant

APPEAL NO: 11A-UI-13294-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ACCESSIBLE MEDICAL STAFFING
Employer

OC: 09/04/11
Claimant: Appellant (2)

Iowa Code § 96.4(3) – Able to and Available for Work

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's October 3, 2011 determination (reference 02) that held her ineligible to receive benefits as of September 4, 2011, because she still worked for the employer at the same hours and wages she had been hired to work and could not be considered partially unemployed. The claimant participated in the hearing. The employer did not respond to the hearing notice or participate in the hearing. Based on the evidence, the claimant's arguments, and the law, the administrative law judge finds the claimant eligible to receive benefits.

ISSUE:

As of September 4, 2011, is the claimant partially unemployed?

FINDINGS OF FACT:

The claimant started working for the employer in January 2002 as a PRN nurse. The employer was her secondary employer, and her primary employer was Comfort Care Medicare, Inc. The claimant worked for the employer around the hours she worked for Comfort Care Medicare, Inc.

In August 2011, the hours the claimant had been working at Comfort Care Medicare, Inc. were no longer available. About the same times her hours at her primary employer were reduced, the hours the claimant had been working for the employer also decreased. This occurred in part because the facility where the claimant had been working hired a nurse and no longer needed the claimant's services.

The claimant established a claim for benefits during the week of September 4, 2011. Prior to mid-August 2011, the claimant usually worked one or three days a week for the employer. Since mid-August, the claimant has worked one day for the employer. Each week the claimant contacts the employer with her availability and makes a second call to see if any jobs have become available.

REASONING AND CONCLUSIONS OF LAW:

When a claimant is still employed in a part-time job at the same hours and wages as contemplated when hired and is not working a reduced workweek basis, the claimant is not considered partially unemployed. 871 IAC 24.23(26).

Even though the claimant continues to work as a PRN nurse, the evidence suggests she is working a reduced workweek. Also, the claimant's hours with her primary employer, Comfort Care Medicare, Inc., were decreased. The facts establish the claimant is partially unemployed. Therefore, she is eligible to receive benefits as of September 4, 2011. The employer's account is subject to charge.

DECISION:

The representative's October 3, 2011 determination (reference 02) is reversed. The claimant is eligible to receive benefits as of September 4, 2011, because she is working reduced workweeks for the employer. The employer's account is subject to charge.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/kjw