

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

RICHARD E SHEWMAKE
Claimant

APPEAL NO. 10A-UI-16557-MT

**ADMINISTRATIVE LAW JUDGE
DECISION**

COMMUNITY CARE INC
Employer

OC: 10/24/10
Claimant: Appellant (1)

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated November 24, 2010, reference 02, which held claimant not able and available for work. After due notice, a telephone conference hearing was scheduled for and held on January 11, 2011. Claimant participated personally. Employer participated by Ginger Pingel, Manager Organizational Development; Laura Christensen, Human Resource Generalist; and Lori Jahn, HCBS Manager. Exhibit One was admitted into evidence.

ISSUE:

The issue in this matter is whether claimant is able and available for work.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant works as a direct care support professional. Claimant works in homes with clients to attain identified goals. Claimant was asked out of several homes. Claimant opted out of a home. Claimant took himself out of work for Wednesday and Thursdays but works weekends. Claimant also takes two and a half hours off per day during the week.

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".

Inasmuch as claimant was responsible for the reduction in hours he is not able and available for work. Benefits are withheld until such time as the claimant makes himself available for work full time.

DECISION:

The decision of the representative dated November 24, 2010, reference 02, is affirmed. Claimant is not eligible to receive unemployment insurance benefits, effective October 24, 2010, provided claimant meets all other eligibility requirements.

Marlon Mormann
Administrative Law Judge

Decision Dated and Mailed

mdm/css