

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MARY B PAUL
Claimant

APPEAL NO. 11A-UI-14158-VST

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 08/21/11
Claimant: Appellant (4R)

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

The claimant filed an appeal from a decision of a representative dated October 25, 2011, reference 01, which gave claimant a warning for failing to make two job contacts during the week ending October 22, 2011. After due notice, a telephone conference hearing was scheduled for and held on November 22, 2011. Claimant participated. Official notice is taken of agency records.

ISSUE:

Whether the claimant was able and available for work for the week ending October 22, 2011.

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 an original claim for benefits with an original claim date of August 21, 2011. The claimant did not make any job contacts during the week ending October 22, 2011. She was out of town taking care of two different family emergencies. She did call in for the week ending October 22, 2011, and thought she reported that she was not able and available for work that week. Benefits were paid for the week ending October 22, 2011. The claimant was able and available for work for all weeks after October 22, 2011. She has secured a part-time job and had reported all wages earned in her part-time job. She is still actively looking for a full-time job.

REASONING AND CONCLUSIONS OF LAW:

871 IAC 24.23(25) provides:

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

(25) If the claimant is out of town for personal reasons for the major portion of the workweek and is not in the labor market.

The representative issued a warning to the claimant for failing to make two job contacts for the week ending October 22, 2011. The claimant did not make two job contacts that week because she was out of town attending to family emergencies. The claimant thought that she also indicated that she was not able and available for work for the week ending October 22, 2011. Benefits were paid for that week and the claimant acknowledges that she should not have received benefits for that week.

The warning is removed from the claimant's record. The claimant has been overpaid benefits for the week ending October 22, 2011, because she was not able and available for work. This matter is remanded to the claims section for further action in accordance with this decision.

DECISION:

The decision of the representative dated October 25, 2011, reference 01, is modified in favor of the appellant. The warning is removed from the claimant's file. The claimant was not able and available for work for the week ending October 22, 2011. This matter is remanded to the claims section for further action consistent with this opinion.

Vicki L. Seeck
Administrative Law Judge

Decision Dated and Mailed

vls/pjs