

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CYNTHIA S SCHMIDT
Claimant

APPEAL NO: 12A-UI-02808-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

GENESIS HEALTH SYSTEM
Employer

**OC: 10/02/11
Claimant: Appellant (5)**

871 IAC 24.22(2)(i)3 – Only On-Call Wage Credits in Base Period

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's March 14, 2012 determination (reference 01) that held her ineligible to receive benefits as of October 2, 2011, because she was still employed and working the same hours she had asked to work in March 2010. As a result of the claimant's request to work on-call, the determination held she was not partially unemployed. The claimant participated in the hearing. Linda Sanders, a human resource assistant, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge concludes the claimant is not eligible to receive benefits.

ISSUE:

Is the claimant eligible to receive benefits as of October 2, 2011?

FINDINGS OF FACT:

The claimant started working for the employer in February 2007. The employer hired the claimant to work as a part-time receptionist. When the claimant went back to school, she asked the employer if she could continue to work as an on-call employee. The claimant made this request in March 2010. The claimant started classes for a nursing degree in August 2010.

After the claimant went back to school to become a nurse, she told the employer the hours she was and is available to work. During her base period, the claimant was not available to work very many hours October 1, 2010 through March 30, 2011, because of the classes she took. The only wages in her base period are from the employer when she worked on-call. The claimant plans to graduate in May 2012.

The claimant established a new claim for benefits during the week of October 2, 2011. Even though the claimant received training extension benefits under a prior benefit year, the administrative record does not indicate she has received Department Approve Training status since she established her new benefit year.

REASONING AND CONCLUSIONS OF LAW:

A claimant whose wages credits consist only of on-call work in her base period is not considered unemployed as defined under Iowa law. 871 IAC 24.22(2)(i)3. Since the claimant only has on-call wages in her base period that she established the week of October 2, 2011, she cannot be considered partially unemployed. This means she is not eligible to receive benefits.

If the claimant were eligible to receive benefits, without Department Approved Training status she would be required to look for work and would probably not be considered available for work because of her classes.

DECISION:

The representative's March 14, 2012 determination (reference 01) is modified, but the modification has no legal consequence. The claimant is not considered partially unemployed because all of the wage credits in her base period are from working on-call for the employer. For unemployment insurance purposes, the claimant is not eligible to receive benefits as of October 2, 2011.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs