

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

GWENDOLYN R DUFF

Claimant

APPEAL NO: 12A-UI-03418-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ULTIMATE NURSING SERVICES OF IOWA

Employer

OC: 02/12/12

Claimant: Appellant (4)

Iowa Code § 96.4(3) – Ability To and Availability For Work

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's March 30, 2012 determination (reference 01) that held her ineligible to receive benefits as of February 12, 2012, because she was unable to work as the result of a work-related injury. The claimant participated in the hearing with her attorney, Corey Walker. The employer did not respond to the hearing notice or participate in the hearing. During the hearing, Claimant Exhibits A and B were offered and admitted as evidence. Based on the evidence, the claimant's arguments, and the law, the administrative law judge finds the claimant eligible to receive benefits as of March 25, 2012.

ISSUE:

As of February 12, 2012, is the claimant able to and available for work?

FINDINGS OF FACT:

The claimant started working for the employer in June 2008. She provided home nursing to children and young adults. On March 28, 2011, the claimant received a work-related injury. The claimant's treating physician concluded that as of November 14, 2011, the claimant had reached maximum medical improvement and gave an opinion regarding an impairment rating related to the March 28, 2011 injury. (Claimant Exhibit A.)

On February 1, 2012, the claimant's physician released her to work with the following work restrictions:

No lifting, pushing or pulling over 40 pounds

No repeated bending/twisting of back

(Claimant Exhibit B.)

The claimant contacted the employer to work after she had been released but has not been assigned any jobs. As of February 1, the claimant could perform the job duties as she had before her injury depending on the client. On March 28, 2012, the claimant's physician released her to work without any restrictions.

The claimant established a claim for benefits during the week of February 12, 2012. She has filed weekly claims since establishing her claim. Since February 12, the claimant has been looking for work as a nurse (LPN) in which she has several decades of experience. She has contacted the employer several times for work and as recently as early April after she had been released for full duty without any restrictions.

REASONING AND CONCLUSIONS OF LAW:

Each week a claimant files a claim for benefits, she must be able to and available for work. Iowa Code § 96.4(3). The claimant reached maximum medical improvement as of November 12, 2011, but was not released to work with some restrictions until February 1, 2012. The facts establish that with her work restrictions she could only work with some clients. Since she was still looking for a nursing job, these restrictions limited the work the claimant was initially released to do. As of March 25, 2012, the facts establish the claimant is able to perform the work she had done before her injury. As of March 25, 2012, the claimant is able to work in a meaningful nursing job. As of March 25, 2012, the claimant is eligible to receive benefits.

DECISION:

The representative's March 30, 2012 determination (reference 01) is modified in the claimant's favor. The claimant is not eligible to receive benefits for the weeks ending February 18 through March 24, 2012. As of March 25, 2012, the claimant is able to work and is eligible to receive benefits.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs