

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JANE A SCHOLLMAYER

Claimant

APPEAL NO. 14A-UI-01575-VST

**ADMINISTRATIVE LAW JUDGE
DECISION**

MEDICAL ASSOCIATES CLINIC PC

Employer

OC: 08/11/13

Claimant: Appellant (1)

Section 96.4-3 – Able and Available
871 IAC 24.23(26) – Same Hours and Wages

STATEMENT OF THE CASE:

The claimant filed an appeal from a representative's decision dated January 30, 2014, reference 02, which held that the claimant was ineligible for unemployment insurance benefits. After due notice, a hearing was initially held on March 4, 2014. The record was reopened for the taking of additional evidence on March 19, 2014, by telephone conference call. The claimant participated personally. Employer participated by Alexa Gross and Kim Kammerude. Official notice was taken of agency records.

ISSUE:

Whether the claimant is eligible for partial unemployment insurance benefits for the week ending December 21, 2013.

FINDINGS OF FACT:

The administrative law judge, having considered all of the evidence in the record, makes the following findings of fact:

The claimant was hired on September 30, 2013, for a part-time position with the employer. The claimant was not guaranteed any specific number of hours. The claimant's hours were zero to 20 hours per week. The claimant reopened her original claim following a separation of employment from Dubuque Family Practice dated August 11, 2013. She reopened the claim for the week ending December 21, 2013, because she only earned \$440.00 per week and her weekly benefit amount was \$462.00. The claimant was not guaranteed any certain number of hours per week by the employer.

REASONING AND CONCLUSIONS OF LAW:

871 IAC 24.23(26) provides:

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

(26) Where a claimant is still employed in a part-time job at the same hours and wages as contemplated in the original contract for hire and is not working on a reduced workweek basis different from the contract for hire, such claimant cannot be considered partially unemployed.

The claimant is not eligible for unemployment insurance benefits. The claimant was employed in a part-time job with no guarantee of any certain number of hours per week. The range could be zero to 20 hours per week. If an individual is employed at the same hours and wages as the original contract of hire, he or she is not considered able and available for work. The claimant, therefore, is not eligible for partial unemployment insurance benefits for the week ending December 21, 2013.

DECISION:

The decision of the representative dated January 30, 2014, reference 02, is affirmed. Unemployment insurance benefits are not available for the week ending December 21, 2013.

Vicki L. Seeck
Administrative Law Judge

Decision Dated and Mailed

vls/css