

**IOWA WORKFORCE DEVELOPMENT  
Unemployment Insurance Appeals Section  
1000 East Grand—Des Moines, Iowa 50319  
DECISION OF THE ADMINISTRATIVE LAW JUDGE  
68-0157 (7-97) – 3091078 - EI**

**CHRISTINE MARTIN  
614 W 9<sup>TH</sup> ST  
BOONE IA 50036-1901**

**MARY GREELEY MEDICAL CENTER  
1111 DUFF AVE  
AMES IA 50010**

**Appeal Number: 06A-UI-06876-ET  
OC: 04-02-06 R: 02  
Claimant: Respondent (1)**

**This Decision Shall Become Final**, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 2<sup>nd</sup> Floor—Lucas Building, Des Moines, Iowa 50319.**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

Section 96.4-3 - Able and Available for Work

STATEMENT OF THE CASE:

The employer filed a timely appeal from a representative's decision dated June 30, 2006, reference 04, which allowed benefits to the claimant. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on July 26, 2006. The claimant participated in the hearing. Betsy Schoeller, Manager of Employee Relations, participated in the hearing on behalf of the employer. Claimant's Exhibit A was admitted into evidence. The record was left open for further documents from the claimant that were not received by 4:30 p.m., August 9, 2006.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a medical records clerk for Mary Greeley Medical Center from November 10, 1998 to October 2005. She injured her back, had surgery in July 2005, and was

unable to return from a medical leave of absence as of September 2005, at which time the employer sent a letter indicating it would no longer hold her job. On June 7, 2006, the claimant secured a note from her physician stating he believed the claimant could "do any activity as tolerated with the understanding that you do have some medical problems that may limit you from doing certain types of work. I would encourage you to do any type of work that you can handle and perhaps trying out the job for a few hours would be suitable to see if it is something that would be suitable for you. I think light duty is the way to go obviously" (Claimant's Exhibit A). The claimant began a new job as a desk clerk at Super 8 on June 28, 2006. She also does some laundry and housekeeping and has not had any difficulty with the work. She is averaging 30 hours per week as of the date of the hearing but is able and available for 40 hours per week depending on the employer's personnel needs.

#### REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant is able to work and available for work

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".

In order to be eligible for unemployment insurance benefits a claimant must be able and available for work. If a claimant is able and available for any work, not just that which she previously did, she is eligible for benefits. Consequently, the administrative law judge concludes the claimant is able and available for work as demonstrated by the fact she is working an average of 30 hours per week for Super 8 at this time. Accordingly, benefits are allowed.

#### DECISION:

The June 30, 2006, reference 04, decision is affirmed. The claimant is able to work and available for work effective the week ending June 24, 2006. Benefits are allowed.

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