

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**TERESA M DAVIS**  
Claimant

**APPEAL NO. 11A-UI-07143-PT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**JENNIE EDMUNDSON**  
**MEMORIAL HOSPITAL**  
Employer

**OC: 04/24/11**  
**Claimant: Appellant (2)**

Section 96.4-3 – Able and Available

**STATEMENT OF THE CASE:**

Claimant filed an appeal from a decision of a representative dated May 27, 2011, reference 01, which held claimant was not able and available for work. After due notice, a telephone conference hearing was scheduled for and held on June 22, 2011. Claimant participated personally. Employer participated by Kathy Heuwinkel.

**ISSUE:**

The issue in this matter is whether claimant is able and available for work.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and having considered all of the evidence in the record, finds: Claimant was employed from 2001 through April 24, 2011. She sustained a work injury on October 8, 2010 and was subsequently off of work and receiving treatment. She reached maximum medical improvement on or about April 24, 2011. At that time, she was given a permanent restriction of no lifting over 35 pounds. The employer would not allow claimant to return to her job as a registered nurse in the emergency room with that restriction. However, there are other jobs that the claimant could perform for the employer within that restriction and there are other jobs the claimant could perform in her area of residence within that restriction. The claimant has been pursuing new employment and has been making an earnest and active search for work.

**REASONING AND CONCLUSIONS OF LAW:**

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".

Claimant is restricted, but the claimant has established that there are jobs within her restrictions that she can perform with her current skills and training as a registered nurse. She is earnestly and actively seeking such employment. Benefits shall be allowed effective April 24, 2011, provided claimant is otherwise eligible.

**DECISION:**

The decision of the representative dated May 27, 2011, reference 01, is reversed. Benefits shall be allowed effective April 24, 2011, provided claimant meets all other eligibility requirements.

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Ron Pohlman  
Administrative Law Judge

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Decision Dated and Mailed

rrp/kjw