

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**CONSTANCE M MOMENI**

Claimant

**APPEAL NO. 10A-UI-17767-SWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**MASON CITY COMMUNITY SCHOOL DIST**

Employer

**OC: 04/11/10**

**Claimant: Appellant (1)**

Section 96.4-3 – Able to and Available for Work  
871 IAC 24.22(2)i(3) – On-call Substitute Teachers

**STATEMENT OF THE CASE:**

The claimant appealed an unemployment insurance decision dated December 23, 2010, reference 06, which concluded the claimant was ineligible because all of her base period wages were from on-call substitute teaching with no guarantee on the number of days of work. A telephone hearing was held on February 9, 2011. The parties were properly notified about the hearing. The claimant participated in the hearing. Ramona Jeffrey participated in the hearing on behalf of the employer. The same issues were considered and decided in 10A-UI-17765-SWT.

**ISSUE:**

Is the claimant ineligible for benefits because all her base-period wages are from on-call, substitute teaching?

**FINDINGS OF FACT:**

The claimant filed a new claim for unemployment insurance benefits with an effective date of April 11, 2010. The wages in the claimant's base period from January 1, 2009, to December 31, 2009, were all from on-call substitute teaching. The claimant has worked for the employer on call as a substitute teacher with no guarantee on the number of days of work she will receive for several years.

**REASONING AND CONCLUSIONS OF LAW:**

The question is whether the claimant ineligible for benefits because all her base-period wages are from on-call, substitute teaching. The law requires claimants to be able to work and available for work. Iowa Code § 96.4-3. The availability rules promulgated by the Agency state: "An individual whose wage credits earned in the base period of the claim consist exclusively of wage credits by performing on-call work, such as a banquet worker, railway worker, substitute school teacher or any other individual whose work is solely on-call work during the base period, is not considered an unemployed individual within the meaning of Iowa Code § 96.19(38)"a" and

“b.” 871 IAC 24.22(2)i(3). The law requires that a person meet the definition of being an unemployed individual to receive benefits. Iowa Code 96.4.

The claimant is ineligible for benefits because all her base-period wages are from on-call, substitute teaching with no guarantee as to the hours or days of work.

The claimant argued that the administrative law judge’s decision in 10A-UI-10867-DT meant that she should receive benefits before July 19, 2010. The decision has been reversed by the Employment Appeal Board as discussed in 10A-UI-17765-SWT, but even if it had been affirmed, it only meant that the between-terms disqualification for education employees did not apply to her until July 19, 2010. It was not a decision regarding her overall eligibility for benefits, which this decision is.

**DECISION:**

The unemployment insurance decision dated December 23, 2010, reference 06, is affirmed. The claimant is ineligible for benefits because all her base-period wages are from on-call, substitute teaching with no guarantee as to the hours or days of work and she does not meet the definition of being an unemployed individual.

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Steven A. Wise  
Administrative Law Judge

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Decision Dated and Mailed

saw/css