

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CAROL A STEFFEN
Claimant

APPEAL NO: 12A-UI-11001-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

COMFORT CARE INC
Employer

OC: 08/19/12
Claimant: Appellant (4)

Iowa Code § 96.4(3) – Availability for Work

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's September 12, 2012 determination (reference 01) that held her ineligible to receive benefits as of August 19, 2012, because she was unwilling to work the hours her occupation required. The claimant did not respond to the hearing notice or participate in the hearing. Rose Miller appeared on the employer's behalf. Based on the evidence, the employer's arguments, and the law, the administrative law judge concludes the claimant is eligible to receive partial benefits for the week ending September 1, but not the other three weeks that she had filed weekly claims.

ISSUE:

Is the claimant available to work and eligible to receive benefits for the weeks ending August 19 through September 15, 2012?

FINDINGS OF FACT:

The claimant works part time as a home healthcare aide for the employer. She earns \$9.18 an hour. When the claimant had a reduction in her work hours, she established a claim for benefits the week of August 19, 2012. The reduction in hours occurred in part because three clients asked for another healthcare aide and the claimant asked not to work for two clients.

As a result of three clients asking the employer to assign another person to provide those services and the claimant informing the employer that she did not feel comfortable working for two clients in late July and early August, her hours were temporarily reduced in August and September. It takes the employer about a month to schedule a home healthcare aide to new clients.

During the week ending August 21, the employer called the claimant to see if she could work two hours for a client. She declined two hours of work on August 21. On August 27, the claimant declined to take a client to a doctor's appointment for one hour of work. On August 28, the claimant declined to work for a client for two hours because the claimant had a personal appointment. On September 8, the claimant was unable to work five hours because she was going out of town to visit a family member. The claimant declined two hours of work on

September 10 because she had too many personal things to do. On September 11, she declined to take a client to a doctor's appointment for one or two hours because she had her own appointment to go to. On September 11, the claimant declined another job for two hours because the client needed someone too early in the morning. The hours the claimant declined were not scheduled for her. The employer called the claimant at least two hours before a client needed someone to see if the claimant was available for any of these hours.

The claimant established a claim for benefits during the week of August 19, 2012. Her maximum weekly benefit amount is \$222. She filed claims for the weeks ending August 25 through September 15, 2012. The claimant reported her gross wages for these weeks as follows:

Week ending	Gross Wages
August 25, 2012	\$250
September 1, 2012	\$170
September 8, 2012	\$192
September 15, 2012	\$200

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 evidence indicates that if the claimant accepted the hours the employer offered her to work the week ending September 1, she would still be eligible to receive partial benefits for this week. For the weeks ending September 8 and 15, she would have earned excessive wages and would not be eligible for partial benefits if she had accepted the hours the employer offered her. While the claimant had personal reasons for declining these additional jobs, the claimant was not available to work hours the employer had available for her during the weeks ending September 8 and 15. In conclusion, the claimant is not eligible to receive benefits for the week ending August 25, because she had excessive earnings – she earned more than \$237. For the week ending September 1, she is eligible to receive partial benefits because even if she had accepted the hours the employer offered her, she would still be eligible to receive partial benefits. For the weeks ending September 8 and 15, the claimant is not eligible to receive partial benefits because if she had accepted the hours the employer offered her, she would have earned \$237 or more and she would have earned excessive wages.

DECISION:

The representative's September 12, 2012 determination (reference 01) is modified in the claimant's favor. The claimant is not eligible to receive benefits for the week ending August 25, because she earned excessive wages. She is not eligible to receive benefits for the weeks

ending September 8 and 15, because she declined additional hours of work the employer offered her. If she had accepted the additional hours these two weeks, she would have earned \$237 or more each of these weeks. The claimant is eligible to receive benefits for the week ending September 1 because the employer did not offer her enough hours for her to earn at least \$237 in wages.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs