

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**DONNA E GLOEDE**  
Claimant

**APPEAL NO. 10A-UI-16664-DT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**ABCM CORPORATION**  
**GRANDVIEW CARE CENTER**  
Employer

**OC: 11/07/10**  
**Claimant: Appellant (1)**

Section 96.4-3 – Able and Available  
871 IAC 24.22(2)j – Leave of Absence

**STATEMENT OF THE CASE:**

Donna E. Gloede (claimant) appealed a representative's December 6, 2010 decision (reference 01) that concluded she was not qualified to receive unemployment insurance benefits in connection with her employment with ABCM Corporation / Grandview Care Center (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on January 18, 2011. The claimant received the hearing notice and responded by calling the Appeals Section and indicating that she would be available at the scheduled time for the hearing at a specified telephone number. However, when the administrative law judge called that number at the scheduled time for the hearing, the claimant learned that the hearing would take more than five or ten minutes, and so indicated that she was not available, but rather wished to rely upon the appeal and documentation submitted with her appeal; therefore, the claimant did not directly participate in the hearing. Craig Allen appeared on the employer's behalf. During the hearing, Claimant's Exhibit A was entered into evidence in lieu of her personal participation. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

Was the claimant eligible for unemployment insurance benefits by being able and available for work?

Was there period of voluntary unemployment through a leave of absence?

**FINDINGS OF FACT:**

The claimant started working for the employer on October 1, 2008. She continues to work full-time as a certified nursing aide (CNA) in the employer's skilled nursing facility. The claimant was off work from October 15 through December 14 due to bronchitis and pneumonia. Her leave was covered under FMLA (Family Medical Leave).

Between October 15 and October 29 the claimant was calling in to report her absences due to illness. On October 29 a doctor's note was provided indicating that she could not work until further notice. On November 5 she was given a doctor's note allowing her to perform light-duty work, but the claimant's regular job functions were more than allowed by the light-duty restrictions. The

employer did not have light-duty work readily available for the claimant, but would have had to remove duties from other employees to make light duty work available for the claimant; as the claimant's restrictions were not due to a work-related condition, the employer was not under an obligation to create a light-duty work position for her.

On November 30 the claimant was given a doctor's note essentially allowing her to return to normal work duties as of December 14; she did return to work on December 15 and has remained in her position through the date of the hearing.

**REASONING AND CONCLUSIONS OF LAW:**

For each week for which a claimant seeks unemployment insurance benefits, she must be able and available for work. Iowa Code § 96.4-3. In general, an employee who is only temporarily separated from her employment due to being on a leave of absence is not "able and available" for work during the period of the leave, as it is treated as a period of voluntary unemployment. 871 IAC 24.22(2); 871 IAC 24.23(10)

The claimant's period of unemployment between October 15 and December 14 was due to her being on a leave of absence due to a non-work-related medical issue. As the condition causing her temporary unemployment was not related to the work environment, in order to be sufficiently well for the claimant to regain her eligibility status as being able and available for work, she must have a complete recovery to full work duties without restriction. Hedges v. Iowa Department of Job Service, 368 N.W.2d 862, 867 (Iowa App. 1985); Iowa Code § 96.5-1-d. Unemployment insurance benefits are not intended to substitute for health or disability benefits. White v. Employment Appeal Board, 487 N.W.2d 342 (Iowa 1992). For the period the claimant is seeking unemployment insurance benefits, including the period between November 5 and December 14, she was under sufficient work restrictions as would preclude her from returning to her regular work duties. She was therefore not eligible to receive unemployment insurance benefits for that period.

**DECISION:**

The representative's December 6, 2010 decision (reference 01) is affirmed. The claimant was not able and available for work effective October 15 through December 14, 2010, and the period of temporary separation was a period of voluntary unemployment not attributable to the employer. The claimant is not qualified to receive unemployment insurance benefits for this period.

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Lynette A. F. Donner  
Administrative Law Judge

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Decision Dated and Mailed

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