

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**CASSANDRA WINNER**  
Claimant

**APPEAL NO: 11A-UI-06381-DT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**BETTER HEALTH INC  
VALLEY DRUG STORE**  
Employer

**OC: 04/03/11  
Claimant: Respondent (3)**

Section 96.4-3 - Active Search for Work

**STATEMENT OF THE CASE:**

Better Health, Inc. / Valley Drug Store (employer) appealed a representative's May 5, 2011 decision (reference 02) that concluded Cassandra Winner (claimant) was no longer temporarily unemployed and was therefore required to actively seek employment. After a hearing notice was mailed to the claimant's last-known address of record, a telephone hearing was held on June 23, 2011 in conjunction with one related appeal, 11A-UI-06380-DT. The claimant participated in the hearing. Sarah Millsap, attorney at law, appeared on the employer's behalf and presented testimony from one witness, Linda Grimm. 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:**

Is the claimant required to make an active search for work, or is that provision waived because she is temporarily or partially unemployed?

**FINDINGS OF FACT:**

The claimant established a claim for unemployment insurance benefits effective April 3, 2011.

As determined in the concurrently issued decision in appeal 11A-UI-06380-DT, the claimant's regular job for purposes of her unemployment insurance claim was working 40 or more hours per week, and as of April 3, 2011 she was partially unemployed due to the employer reducing her to working only Saturdays and occasional fill-ins.

**REASONING AND CONCLUSIONS OF LAW:**

Iowa Code § 96.4-3 and 871 IAC 24.22(3) provide that a claimant must make a personal and diligent effort to find a job and that a claimant shall be ineligible for benefits for any period for which the Agency finds the individual failed to make an earnest and active search for work.

However, Iowa Code § 96.4-3 provides in pertinent part:

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". . . .  
(Emphasis added.)

As determined in the concurrently issued decision in appeal 11A-UI-06380-DT, the claimant has been partially unemployed since April 3, 2011. She is therefore exempt from making applications for work for weeks for which that remains the case. 871 IAC 24.22(3)f(4). Therefore, the work search requirement does not currently apply to the claimant.

**DECISION:**

The unemployment insurance decision dated May 5, 2011 (reference 02) is modified in favor of the claimant. The claimant is exempt from making active search for work during weeks she is partially unemployed.

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Lynette A. F. Donner  
Administrative Law Judge

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Decision Dated and Mailed

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