

Iowa Department of Inspections and Appeals  
Division of Administrative Hearings  
Wallace State Office Building, Third Floor  
Des Moines, Iowa 50319

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Tiffany Latham, Complainant,	)	
	)	DIA No. 12ICRC002
and	)	
	)	
Iowa Civil Rights Commission	)	
	)	
v.	)	
	)	
ABCM Corp., d/b/a Grandview Health	)	<b>PROPOSED DECISION</b>
Care Center, Respondent.	)	

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**STATEMENT OF THE CASE**

Tiffany Latham filed a pregnancy discrimination complaint with the Iowa Civil Rights Commission (the commission) against respondent ABCM Corp, d/b/a Grandview Health Care Center (Grandview). The commission found probable cause and the case was transmitted to my office to hold a contested case hearing.

On September 27, 2012, I issued a decision granting summary judgment in favor of Grandview, and denying the commission's motion for summary judgment. The decision was appealed to the commission. On January 24, 2013, the commission issued a 5-1 decision reversing my decision and remanding the case for a contested case hearing. The commission set a legal standard to be applied to the case on remand. That standard will be discussed in more detail in the conclusions of law section of this decision.

The file was not immediately returned to my office, but was eventually transmitted and a hearing was set for September 18, 2013. Assistant Attorney General Katie Fiala represented the commission. The commission called Tiffany Latham and Craig Allen as witnesses. The commission's exhibits 1-10 were admitted into the record. Attorney Ray Aranza represented Grandview. Grandview called Becky Lohrbach as a witness. Grandview's exhibits A-Q were admitted into the record. The parties also offered a stipulation of facts.

The parties agreed to file briefs that would be due on October 4, 2013. Both parties filed timely briefs. The case was deemed submitted on the filing of briefs. Grandview also filed a reply brief on October 22, 2013. In response, the commission filed a motion to

strike the reply brief, or in the alternative, its own reply brief. Because no reply brief was discussed or allowed, and the reply was not filed within the briefing deadline set at hearing, both reply briefs will be struck.

### **FINDINGS OF FACT**

The findings of fact in this proposed decision are comparable to those recited in the ruling on motions for summary judgment. This should not be surprising. Motions for summary judgment are based on the contention that there are no material fact issues. Both parties filed motions for summary judgment, thus showing that neither party believed that a material fact issue existed at that time. Still, the parties presented testimony and documents at hearing that were not presented at the summary judgment stage, so a complete statement of the findings of fact is warranted.

**Ms. Latham's initial employment at Grandview:** Tiffany Latham started working at Grandview on October 18, 2006. Grandview is long-term care facility that provides care to disabled and elderly residents. Grandview has four separate halls or wings. The A wing is assigned for Alzheimer's residents. The D wing is designated for residents who require ventilators. The B and C wings are not specialized, but residents with the higher level of care needs are assigned to B wing. For example, the residents on B wing require staff people to help them get in and out of bed. Grandview assigns residents with the greatest degree of independence to the C wing. Staff working on the C wing can often assist residents through cues and reminders. (Stipulation; Latham testimony; Exhibit C).

Ms. Latham initially worked in the laundry room, but later transferred to a job as an uncertified nursing aide and then to a certified nursing assistant (CNA) position. Grandview's administrator described the job duties of a CNA as "the hardest job in the building." The primary job responsibilities of a CNA are to assist residents with activities of daily living and implement, communicate, and document resident care. Specific activities include assisting residents out of bed, dressing, toileting, eating, and ambulation (sometimes with gait belts). Grandview listed a number of physical abilities as essential job functions for the position of CNA. One of the physical abilities is:

Lifting (based on amount lifted and body position when lifting): Over 50 lbs. good body mechanics or 25-50 lbs (sic) improper body mechanics[.]

(Stipulation; Latham, Allen testimony; Exhibits 6, C).

Grandview assigned the number of CNAs to each wing based on the level of care needed on each wing. Grandview typically assigned two CNAs to the B wing because the level of care was the lowest on that wing. The facility assigned three or four CNAs to the B

and D wings because those residents required more help. Ms. Latham worked as a CNA on the B and D wings. (Latham testimony).

**Ms. Latham's pregnancy and imposition of maternity leave:** On November 9, 2009, Ms. Latham notified Grandview that she was pregnant with an anticipated July 7, 2010 delivery date. On December 2, 2009, Ms. Latham signed a Notice of Eligibility and Rights & Responsibilities published by the United States Department of Labor regarding the Family and Medical Leave Act (FMLA). Grandview stated on the notice that Ms. Latham was eligible for eight weeks non-paid leave under the FMLA. Grandview determined that Ms. Latham did not qualify for additional FMLA leave because she had not met the Act's 1,250 hour work requirement. Ms. Latham thought she might qualify for more, but was told by her employer she was limited to eight weeks. (Exhibit E; Latham testimony).

Ms. Latham had no trouble performing her work duties during her pregnancy until June of 2010. On June 5, 2010, she had contractions at work. She left work and went to the hospital. The treating physician issued a note restricting Ms. Latham to an eight hour work shift and "no heavy lifting." On June 9, 2012, Ms. Latham sought clarification from her personal doctor as to what was meant by "no heavy lifting." Her personal doctor gave her a note restricting her from living more than 10 to 15 pounds. (Exhibits C, F; Latham testimony).

Ms. Latham did not immediately tell Grandview about the work restrictions. Ms. Latham started her shift at 6:00 a.m. and her supervisor was not present when she arrived on June 10, 2010. Ms. Latham worked on the B wing on June 10. During the course of her shift, she was asked to help two other employees transfer a combative resident from bed to a chair. She helped, but realized she violated her work restriction. She then talked to the charge nurse about her restrictions. The charge nurse directed Ms. Latham to talk to Cindy Franck, the director of nursing. (Latham testimony).

Ms. Latham met with Ms. Frank on June 10, 2010, and provided a copy of her work restrictions. Ms. Frank directed her to talk to Craig Allen, the administrator for Grandview. She did so on the following day, June 11. Mr. Allen told Ms. Latham that she could no longer perform the essential functions of a CNA due to the lift restrictions. Ms. Latham asked if she could work as a personal needs assistant (PNA), which is also referred to as an environmental aid. The general job description of a PNA is to provide light housekeeping duties within the nursing department without providing "hands-on patient care." For example, PNAs might make beds, run snack carts, clean up rooms, and assist with meals. Mr. Allen responded that there were no available PNA positions at that time. Ms. Latham started her maternity leave effective that day. (Stipulation; Latham, Allen testimony; Exhibit 10).

Ms. Latham gave birth to her child on July 1, 2010. During the period she took leave, she received accrued sick leave, vacation, and payments through Aflac. She argued that she could have continued to work as a PNA from June 11 through July 1. She claimed she would have earned more in salary than she received in Aflac payments. She also claimed that Grandview's decision caused emotional distress because she felt she might lose her job if she ran out of leave. Grandview represented that she only had eight weeks of FMLA time. She worried that she may not recover from giving birth within that eight week period if she had to use three or more weeks of leave before child birth. Ms. Latham testified that Mr. Allen gave no assurances that she could extend her time off, and simply said that "we will cross that road when we get there." (Latham testimony).

Grandview argued that Ms. Latham could not perform the duties of a PNA. The job qualifications of a PNA the physical ability of:

Lifting (based on amount lifted and body position when lifting): 25-50 lbs.  
good body mechanics or 10-25 lbs (sic) improper body mechanics[.]

Mr. Allen testified that he could not assign Ms. Latham duties as a PNA because she could not meet this requirement. It is questionable what PNA duties actually required lifting more than 15 pounds. Ms. Latham testified she could have performed the PNA duties as she understood them, e.g. she could have lifted trays of food, made beds, delivered snacks from a cart, and done light cleaning. Ms. Latham never saw PNAs lift residents. Mr. Allen also testified that the PNA schedule is set out two weeks in advance, so it would be questionable whether Ms. Latham could have been scheduled prior to giving birth. However, the record shows several instances when PNAs were absent or filled in for CNAs, so there were been gaps on the PNA schedule that Ms. Latham could have filled. (Allen, Latham testimony; Exhibits A, 10).

Ms. Latham also claimed she could have worked as a CNA in the C wing because residents in that wing did not require assistance in and out of bed. She testified that one CNA was only assigned to the C wing because she was small and could not lift heavy residents. However, Ms. Latham acknowledged that a CNA working the C wing possibly might have to lift 50 or more pounds and only one other person in the wing was available to help. (Latham testimony).

There was showing of good faith by both parties following the baby's birth. While on leave, Ms. Latham visited the facility and brought in her baby to show employees. Grandview allowed Ms. Latham more than eight weeks of leave – she returned on August 15, 2010. Ms. Latham had completed a nursing degree during her pregnancy, and Mr. Allen offered her a nursing job on the second shift. Ms. Latham turned down the job

because the hours did not work for her family responsibilities. Ms. Latham voluntarily left employment with Grandview on November 10, 2010, to explore broader opportunities to work as a nurse. She had not secured employment immediately after resigning her employment with Grandview. (Stipulation; Latham, Allen testimony; Exhibits G, H).

**Other evidence relative to the question of liability:** Grandview had a limited light duty policy allowing employees who were injured while working an opportunity to perform some work while recovering. The light duty policy was limited to employees receiving worker's compensation benefits. Grandview argued that Ms. Latham could not benefit under this policy because her work restrictions were not caused by an on-the-job injury. (Exhibit 9).

Ms. Latham testified that Grandview had allowed her to work light duty in the past. In June of 2008, she suffered a non-employment wrist injury and was restricted to light duty for one week by her doctor. She took the note to Ms. Frank, and literally cried and begged to work light duty to keep some income flowing. Ms. Frank granted her request and assigned her to meals and the snack cart. Grandview did not have the PNA position in place at that time. Ms. Latham argued that Grandview could have granted her similar accommodation in June of 2010. Mr. Allen testified that he did not know about the 2008 accommodation. (Exhibit 3; Latham, Allen testimony).

**Evidence of damages:** Ms. Latham made claims two forms of damages. The first was for compensatory damages for wages lost over the 20 day period between the date she was forced to take leave and the birth of her child. Her average weekly wage for April and May of 2010 was \$230.54, so she claimed she lost \$691.61 in wages. She received Aflac payments of approximately \$506 during the same period. She claims damages for \$185.61, which is the difference between the two. (Exhibits 4-5; Latham testimony).

It is questionable whether Ms. Latham would have maintained the same wages if she had worked as a PNA as she requested. PNAs were not scheduled for eight hour shifts like Ms. Latham worked as a CNA. The shifts listed on Exhibit A were either 7:00 a.m. to 1:00 p.m. (6 hours) or 3:30 p.m. to 8:00 p.m. (4.5 hours). She would have only picked up hours as needed if other PNAs missed work or were reassigned. Ms. Latham acknowledged that she would likely not have worked as many hours if allowed to work as a PNA. In fact, she testified that she would have taken on the PNA job duties even if the salary was less than what she would have received from Aflac. (Latham testimony; Exhibit A).

Ms. Latham also made a claim for emotional distress. She claimed anxiety caused by the fear that she would lose her job if not able to return to work after the eight weeks of

FMLA had run. She was scheduled to have a caesarian delivery and knew the recovery time might run long. If she did physically recover in time to come to work, she worried that she would not have the full eight weeks to bond with her newborn. While Grandview ultimately allowed her additional time to stay home, she did not know that would occur until later in her recovery period. She claimed \$7,500.00 in emotional distress. (Latham testimony; Exhibit L, p. 13).

### **CONCLUSIONS OF LAW**

**Legal standard:** In the ruling on summary judgment, I determined that the Iowa Civil Rights Act (ICRA) and the federal Pregnancy Discrimination Act (PDA) were substantively the same and established the same legal standard.<sup>1</sup> The commission disagreed on review, finding that the ICRA expanded upon the rights granted by the PDA and thus created a different legal standard. The commission stated that pregnancy-related discrimination claims under the ICRA must be evaluated through a reasonable accommodation analysis comparable to disability discrimination claims. The commission remanded the case with the direction to apply the following standard:

To show a valid claim for a failure to make a reasonable accommodation, complainant must show: [1] she is an otherwise qualified individual who is pregnant; [2] she notified the Respondent of her pregnancy and need for accommodation; [3] there is an accommodation which would allow her to perform the essential job functions or otherwise enjoy equal benefits and privileges of her employment; and [4] the Respondent failed to provide an effective accommodation.

Respondent claims that Ms. Latham cannot show she is “qualified” because she could not continue to perform the job duties of a CNA or a PNA due to her lift restrictions. Respondent also claims that there was no accommodation that would allow Ms. Latham to perform the essential job functions of those positions.

**Whether Ms. Latham was qualified:** I note that in ruling on the motion to summary judgment, I used the standard burden-shifting framework set out in *McDonnell Douglas Corp. v. Green*, 411 U.S. 792 (1973).<sup>2</sup> The Iowa Supreme Court had used the following three-part test to determine whether the plaintiff met her prima facie case: 1) she was pregnant; 2) she was qualified; and 3) the adverse action occurred under circumstances giving rise to an inference of discrimination.

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1 See Iowa Code section 216.6(2); 42 U.S.C. section 2000e(k).

2 See e.g. *DeBoom v. Raining Rose, Inc.*, 772 N.W.2d 1, at 6-7 (Iowa 2009).

When evaluating the case on summary judgment, I concentrated on the third element, which dealt with the crux of the claim of discrimination. I expressed concern that this case not be decided on the qualification element, even though there is some case law supporting Grandview's argument.<sup>3</sup> My concern was that employers could find ways to purposefully discriminate against pregnant or other employees by adopting restrictive written policies describing job duties and light duty assignments.

I see no reason to deviate from my prior decision now. The commission characterized the test as simply showing Ms. Latham was an "otherwise qualified individual who [was] pregnant." Ms. Latham was clearly qualified to perform the duties of a CNA before becoming pregnant and while pregnant until the lift restrictions were placed on her. She returned to work as a CNA at Grandview after giving birth. She was only temporarily restricted from performing the duties of a CNA for three weeks late in her pregnancy.

Based on the test adopted by the commission, this case cannot be evaluated similarly to standard disability cases. For example, in *Alexander v. Northland Inn*, an employee who worked as a housekeeping supervisor at a hotel had lift restrictions placed after she injured her back in a non-job related automobile accident. The court concluded that she was not "qualified" for the position after her injury because he could not perform the essential functions of the job, which included vacuuming, even though she was capable before the injury.<sup>4</sup> Ms. Latham was "qualified to perform the job of a CNA – the only obstacle was the temporary job restrictions caused by her pregnancy. Accordingly, the analysis must shift to the question of accommodations.

**Could Ms. Latham work with reasonable accommodations:** Ms. Latham listed two potential accommodations. The first was to be assigned CNA duties on the C wing, which consisted of the most independent residents in the facility. The second was assignment to PNA duties. She did not ask to displace another worker, but rather, to pick up hours for workers who were absent or covering other duties.

CNA duties on the C wing:

Neither Iowa nor federal law requires an employer to change the essential nature of a job to accommodate an employee's deficiencies.<sup>5</sup> The definition of "reasonable" requires a flexible standard, but it is not measured solely by the disabled employee's needs and

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<sup>3</sup> See *Spivey v. Beverly Enterprises, Inc.*, 196 F.3d 1309, 1311-12 (11<sup>th</sup> Cir. 1999); *Urbano v. Continental Airlines, Inc.*, 138 F.3d 204 (5<sup>th</sup> Cir. 1998), *cert denied* 525 U.S. 100 (1999).

<sup>4</sup> 321 F.3d 723, 728 (8<sup>th</sup> Cir. 2003),

<sup>5</sup> *Muller v. Hotsy Corp.*, 917 F.Supp. 1389, 1415-16 (N.D. Iowa 1996); *Boelman v. Manson State Bank*, 522 N.W.2d 73, 81 (Iowa 1994).

desires – it also considers the economics and other realities faced by the employer.<sup>6</sup> An accommodation is not considered to be “reasonable” if it substantially impinges on the rights of other employees or incurs more than de minimus costs on the employer.

Ms. Latham’s claim that she could have been transferred to the C wing as a reasonable accommodation is not supported by the evidence. The assigned duties of a CNA were the same on all four wings of the facility. A CNA on each of the four wings must be capable of performing the same duties. There was no dispute that the C wing contained the highest number of independent people, but Ms. Latham did not deny that CNAs on that wing might be required to lift more than the 15 pounds on her lift restriction. The residents on the C wing might be the most independent in the facility, but they were still living in a nursing home and had daily care needs, possibly including help with transfers. Ms. Latham had not been assigned to the C wing and her knowledge of the day to day work that wing was not based on personal work experience. Ms. Latham made a reference to another CNA who was always assigned to C wing due to her small stature, but there was no evidence that that CNA could not perform lifting requirements of the job if needed.

By all accounts, Ms. Latham was a good CNA who diligently performed her assigned duties. However, if she had assigned to the C wing and had to lift or support a resident and could not, the resident’s safety could be put at risk for injury due to a fall or other accident. Mr. Allen described the job duties of a CNA as “the hardest job in the building” for good reason. Grandview properly denied this request for accommodation due to business necessity and out of the best interests of its residents.

PNA duties – uses of the interactive process:

Ms. Latham’s better argument focused on a principle that Grandview failed to make reasonable steps to accommodate her request because it failed to enter the “interactive process.”<sup>7</sup> In the disability discrimination context, the courts require employers, once an employee requests an accommodation, to enter into an interactive process to determine whether reasonable accommodations are possible. In order to prove such a claim under federal law, the employee must show:

- (1) that the employer knew she was disabled;
- (2) that she requested accommodations;
- (3) that the employer did not make a good faith effort to assist her in making accommodations; and

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<sup>6</sup> *Hotsy*, 917 F.Supp. at 1416.

<sup>7</sup> See e.g. *Buboltz v. Residential Advantages, Inc.*, 523 F.3d 864, 870 (8<sup>th</sup> Cir. 2008).

(4) that the employer could have reasonably accommodated, but for its lack of good faith.<sup>8</sup>

When an employer fails to engage in an interactive process, that is prima facie evidence of bad faith.

The Iowa Supreme Court has not fully illuminated the parameters of the obligation to accommodate through reassignment in a disability discrimination case, but has found the interactive process requires the employee and employer to work in concert to achieve a reasonable accommodation once the employee has expressed a desire for reassignment.<sup>9</sup> The employer is not required to create a vacant position.<sup>10</sup> An employee who seeks reassignment as an accommodation must identify a specific available job the employee is qualified to perform.<sup>11</sup> Even if an employer fails to fully assist an employee in a request for reassignment, the employee must still show a specific position was available that he or she could have sought.<sup>12</sup>

*Magnussen v. Casey's Marketing Co.* provides a good example of an employer who properly used the interactive process.<sup>13</sup> The plaintiff was a store manager for Casey's when a pre-existing back injury restricted her lifting and standing, both of which were job qualifications. The employer made attempts to accommodate. It offered the plaintiff a stool to use while working the register, but she rejected that offer without suggesting an alternative. The employer assigned an additional employee to cover the parts of the shift that she could not stand, but this became a fiscal hardship for the employer. The plaintiff did not propose, request, or accept any accommodation of her restrictions other than asking the employer to pay an extra person to work each full shifts to perform the functions of her position that she was unable to perform. The court rejected her proposed accommodation as unreasonable.

The interactive process requirement is not overly onerous and simply requires the employer to have a conversation with an employee and discuss possible accommodations once the issue arises. The requirement is particularly appropriate in pregnancy cases. Pregnancy is a temporary condition by nature, and accommodations are often not needed at all. Some accommodations, like this case, are limited and only needed late in the pregnancy. Accommodation might not be possible in many circumstances, depending on the severity of restrictions and the type of work done. However, some temporary

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8 *Id.*

9 *Casey's General Stores, Inc. v. Blackford*, 661 N.W.2d 515, 521 (Iowa 2003).

10 *Id.*

11 *Id.*

12 *Id.*

13 787 F.Supp.2d 929, 956 -957 (N.D. Iowa 2011).

accommodation might be available that is mutually workable between the employee and employer. That can only occur if the employer and employee have an open discussion about the needs of both parties.

Grandview did not enter into an interactive process with Ms. Latham. Mr. Allen acknowledged that she asked for an accommodation, but the employer did not have any meaningful discussion whether a transfer to a PNA position would be reasonable. It simply declined the request. Grandview made two arguments in support of its decision. First, it argued Ms. Latham could not perform the essential job functions of a PNA because she could not meet the lift requirements in its policy. Second, it argued it had no open PNA position, so there was no available spot to reassign her.

The evidence as to the lift restrictions for the PNA position was much different than that of the CNA position. PNAs are responsible to provide “light housekeeping duties within the nursing department that do not involve direct hands on patient care.” (Exhibit 10). PNAs perform tasks such as pushing wheeled carts, lifting food trays, and light cleaning. They do not lift or support residents or do other heavy work. Grandview offered no persuasive evidence to show that Ms. Latham could not have done the duties of a PNA.

Grandview did have a policy setting forth the lift restriction for a PNA, but the testimony did not provide support for the restriction imposed. The listed physical abilities in Grandview’s policy should be given some level of deference, but there is no reason to believe that Ms. Latham’s 15 pound lift restriction would have prevented her from doing any of the tasks on the list of job functions or those discussed during testimony at hearing. The weight of the evidence shows that Ms. Latham could have performed the duties of a PNA.

The record supports Grandview’s argument that it had no vacant PNA position. However, Ms. Latham did not ask to be placed in a full-time PNA position or to replace another PNA. Rather, she wanted to fill in for other PNAs who were absent or reassigned. The record shows several examples of that occurring, so there were opportunities for Ms. Latham to fill in for a PNA who did not work as originally assigned. Grandview claimed that it could usually overcome an employee absence without a fill-in, but that could have been one of the discussion points of the interactive process. If Grandview scheduled a certain number of PNAs, there is every reason to expect they would use the PNAs as scheduled. If the employer had agreed to use Ms. Latham as a backup PNA, it could have decided how or whether to use her on any particular day depending on its staffing needs for that date.

Grandview also argued that Ms. Latham’s argument does not make financial sense, in that she was going to make more money through Aflac than she would have by working

spot shifts as a PNA. Ms. Latham does not dispute that argument, but claimed it misses the point. Her concern was the start of her FMLA time. She was concerned about her recovery time and worried that she might not be able to return to work within the eight week period that Grandview allowed. Ms. Latham was willing to give up dollars for the added certainty she would retain her job when she was able to return. That decision was reasonable, and even if not, could not be used as a defense to the reasonable accommodations element.

In summary, Grandview did not enter into the interactive process and did not offer Ms. Latham the reasonable accommodation of transferring her to serve as a backup PNA during the last three weeks of her pregnancy. Grandview is liable for a violation of Iowa Code section 216.6, based on the legal standard adopted by the commission.

**Damage:** Ms. Latham claimed two forms of damages: 1) lost wages, and 2) emotional distress. She did not prove a claim for lost wages. She based her projected wages from her income in April and May of 2010, before her doctor imposed the lift restrictions. Those projections were based on her continuing to work her regular schedule as a CNA. She admitted that she would not work the same number of hours as a PNA, and further admitted that she would not likely earn more in wages than she actually received in Alfac benefits. It is difficult to project how many hours Ms. Latham would have worked as a PNA, and it is highly speculative that she would have earned more in wages that she received in Alfac payments. Her claim for compensatory damages must be denied.

Ms. Latham made a credible claim for emotional distress. She had three children at home and was about to give birth to her fourth. She was worried about losing her job and not being able to support her family. Grandview had represented that she only had eight weeks of leave under the FMLA. Grandview ultimately allowed an additional week, but did not make any commitments until that time arrived. Ms. Latham testified credibly about her emotional distress. It is reasonable to believe that she suffered some level of distress over her belief that she might lose her employment during this period.

There is evidence mitigating against Mr. Latham's claim for \$7,500.00. First, she did not see a therapist or other health care professional to treat her for stress. She returned to Grandview after giving birth to show off her newborn, and even allowed the director of nursing to hold her baby. She returned to work as a CNA after her nine weeks of leave. Grandview showed some good faith as well, by allowing her another week of leave and offering her a nursing position, even though not on her preferred shift.

In *Hy-Vee Food Stores, Inc. v. Iowa Civil Rights Comm'n*, the court entered an award of \$10,000 in emotion distress damages in a case in which the employee was upset, suffered

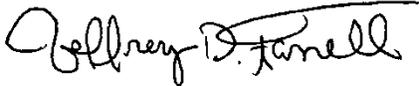
anxiety, headaches, and anxiety that exacerbated a medical condition of psoriasis.<sup>14</sup> The evidence presented by Ms. Latham did not approach the evidence presented in the *Hy-Vee* case, even in measured by 1990 dollars. An award of \$2,500.00 in emotion distress is reasonable based on the evidence presented in this case.

**ORDER**

Ms. Latham met the legal standard set forth by the Iowa Civil Rights Commission to show a violation of the pregnancy discrimination provisions of section 216.6 of the Iowa Civil Rights Act. More specifically, Grandview committed a violation of the Act by failing to enter into the interactive process and granting Ms. Latham a reasonable accommodation to work as a PNA during her last three weeks of pregnancy.

Ms. Latham and the commission did not prove claim for compensatory damages based on lost wages, but did prove a claim for emotional distress in the amount of \$2,500.00. Grandview is order to make payment in that amount.

Issued on December 12, 2013.



Jeffrey D. Farrell  
Administrative Law Judge

cc: AGO – Katie Fiala  
Complainant – Tiffany Latham  
Attorney – Ray Aranza

**NOTICE**

Any adversely affected party may appeal this decision to the Iowa Civil Rights Commission within 30 days of the date of the decision.<sup>15</sup> Any appeal must be in writing, signed, contain a certificate of service upon the other parties, and identify the following:

- a. The parties initiating the appeal;
- b. The proposed decision or order appealed from;
- c. The specific findings or conclusions to which exception is taken and any other exceptions to the decision or order;
- d. The relief sought;
- e. The grounds for relief.

Additionally, the commission itself may initiate its own review of a proposed decision on its own motion at any time within 60 days of the date of the decision.

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<sup>15</sup> 161 IAC 4.23.