

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JAMES OCHAYA
Claimant

APPEAL 21A-DUA-00508-SN-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

**OC: 12/01/19
Claimant: Appellant (1)**

PL 116-136, Sec. 2102 – Federal Pandemic Unemployment Assistance

STATEMENT OF THE CASE:

On January 6, 2021, the claimant filed an appeal from the assessment for Pandemic Unemployment Assistance (PUA) decision dated December 29, 2020 that determined claimant was not eligible for federal PUA benefits. A telephone hearing was held on April 22, 2021. The claimant participated personally. The administrative law judge took official notice of the administrative records.

ISSUE:

Is the claimant eligible for PUA?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds:

On December 29, 2020, the claimant filed his claim for PUA benefits. On his claim form, the claimant provided the following reason for being unemployed, "My place of employment closed as a direct result of the public health emergency." As an explanation, the claimant stated his employment ended as the result of a work-related injury and he had exhausted his benefits.

The claimant last worked as a full time line assembler for Cresline Plastic on March 4, 2018. The claimant last worked for Cresline Plastic on November 2019. He was terminated at that time for a reason wholly unrelated to the Covid19 pandemic that had yet to occur. While he was working at Cresline Plastic, the claimant worked the nightshift.

The claimant has two children. One child is one year old. The claimant and his wife share caregiving responsibilities. His wife typically watched his children while he worked at night. The other is three years old. At the onset of the pandemic, the claimant's children were not going to daycare.

The claimant contends he cannot find daytime work because he cannot find a daycare that has not been closed.

The following section of the findings of fact outlines the claimant's filing, receipt, and current eligibility for unemployment and Pandemic Emergency Unemployment Compensation (PEUC) benefits.

The claimant filed a claim for state unemployment insurance benefits with an effective date of December 19, 2020. The claimant began receiving regular unemployment benefits beginning on February 22, 2020. He exhausted his regular unemployment benefits during the week ending July 18, 2021.

The claimant began receiving PEUC benefits on the week ending July 25, 2020. He exhausted his PEUC benefits on the week ending October 17, 2020.

The claimant began receiving extended benefits on the week ending October 24, 2020. He received these benefits until the week ending October 31, 2020, when Iowa Workforce Development suspended the extended benefits program for all claimants.

The claimant had exhausted all remaining available benefits until January 2, 2021, when the passage of the Continued Assistance Act added PEUC benefits to his balance. The claimant has an outstanding balance of \$4,314.93 in PEUC benefits.¹

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant is not eligible for PUA benefits.

The Coronavirus Aid, Relief, and Economic Security Act, Public Law 116-136, Sec. 2102 provides for unemployment benefit assistance to any covered individual for any weeks beginning on or after January 27, 2020 and ending on or before December 31, 2020, during which the individual is unemployed, partially unemployed, or unable to work due to COVID-19.

That period was subsequently extended through the week ending March 13, 2021 and, in some cases, through the week ending April 10, 2021. See Consolidated Appropriations Act of 2021. The issue to be determined here is whether claimant is a "covered individual" within the meaning of applicable law.

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Section 2102(a)(3) defines individuals who are eligible for PUA benefits.

(3) COVERED INDIVIDUAL.—The term "covered individual"—

(A) means an individual who—

(i) is not eligible for regular compensation or extended benefits under State or Federal law or pandemic emergency unemployment compensation under section 2107, including an individual who has

¹ The administrative law judge noticed a discrepancy in the administrative records indicating the claimant was approved to receive PEUC benefits effective January 2, 2021. The Benefits Bureau is aware of this discrepancy and is working to correct it.

exhausted all rights to regular unemployment or extended benefits under State or Federal law or pandemic emergency unemployment compensation under section 2107; and

(ii) provides self-certification that the individual—

(I) is otherwise able to work and available for work within the meaning of applicable State law, except the individual is unemployed, partially unemployed, or unable or unavailable to work because—

(aa) the individual has been diagnosed with COVID–19 or is experiencing symptoms of COVID–19 and seeking a medical diagnosis;

(bb) a member of the individual’s household has been diagnosed with COVID–19;

(cc) the individual is providing care for a family member or a member of the individual’s household who has been diagnosed with COVID–19;

(dd) a child or other person in the household for which the individual has primary caregiving responsibility is unable to attend school or another facility that is closed as a direct result of the COVID–19 public health emergency and such school or facility care is required for the individual to work;

(ee) the individual is unable to reach the place of employment because of a quarantine imposed as a direct result of the COVID–19 public health emergency;

(ff) the individual is unable to reach the place of employment because the individual has been advised by a health care provider to self-quarantine due to concerns related to COVID–19;

(gg) the individual was scheduled to commence employment and does not have a job or is unable to reach the job as a direct result of the COVID–19 public health emergency;

(hh) the individual has become the breadwinner or major support for a household because the head of the household has died as a direct result of COVID–19;

(ii) the individual has to quit his or her job as a direct result of COVID–19;

(jj) the individual’s place of employment is closed as a direct result of the COVID–19 public health emergency; or

(kk) the individual meets any additional criteria established by the Secretary for unemployment assistance under this section; or

(II) is self-employed, is seeking part-time employment, does not have sufficient work history, or otherwise would not qualify for regular unemployment or extended benefits under State or Federal law or

pandemic emergency unemployment compensation under section 2107 and meets the requirements of subclause (l); and

(B) does not include—

(i) an individual who has the ability to telework with pay; or

(ii) an individual who is receiving paid sick leave or other paid leave benefits, regardless of whether the individual meets a qualification described in items (aa) through (kk) of subparagraph (A)(i)(l).

As stated above, the claimant must show he is a “covered individual” within the meaning of applicable law.

The claimant filed his claim after December 27, 2020. He can only backdate his claim to December 1, 2020. See Department of Labor, Unemployment Insurance Program Letter, No. 16-20 Change 4, (January 8, 2021) at pg. 18.

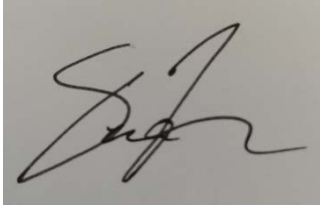
The claimant must first satisfy Section 2102(a)(3)(i) by showing he is ineligible for regular unemployment, extended benefits and PEUC benefits. After December 1, 2020, the claimant was ineligible for other benefits from the week ending December 5, 2020 to the week ending December 26, 2020. He can satisfy Section 2102(a)(3)(i) for that period of time.

The claimant must then show he can self-certify under the PL 116-136 Section 2102(a)(3)(A)(ii)(l)(aa)-(ll). The claimant contends he can self-certify under PL 116-136 Section 2102(a)(3)(A)(ii)(l)(dd). It bears noting that the each self-certification begins with the predicate clause in PL 116-136 Section 2102(a)(3)(A)(ii)(l), which states, “[The claimant] is otherwise able to work and available for work within the meaning of applicable State law, except the individual is unemployed, partially unemployed, or unable or unavailable to work because...” The predicate clause establishes the self-certification reason must be a but for cause for the claimant’s employment. It cannot be shown the claimant’s unemployment was caused by his inability to find daycare. His unemployment was caused well before the Covid19 pandemic for reasons wholly unrelated to childcare and the Covid19 pandemic.

More specifically the claimant must show his unemployment was caused because his children “are unable to attend school or another facility that is closed as a direct result of the COVID–19 public health emergency and such school or facility care is required for the individual to work.” See PL 116-136 Section 2102(a)(3)(A)(ii)(l)(dd). No such showing can be made by the claimant. His children did not attend a school, daycare or any other facility before or after the onset of Covid19. Benefits are denied.

DECISION:

The assessment for PUA benefits decision dated December 29, 2020 that determined claimant was not eligible for federal PUA is affirmed.

A rectangular box containing a handwritten signature in black ink. The signature is stylized and appears to read 'S. Nelson'.

Sean M. Nelson
Administrative Law Judge
Unemployment Insurance Appeals Bureau
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Des Moines, Iowa 50319-0209
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April 30, 2021
Decision Dated and Mailed

smn/scn