

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

KRISTIE KLEVER
Claimant

APPEAL NO. 21A-DUA-01714-JT-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

**OC: 03/07/21
Claimant: Appellant (1)**

PL 116-136 Section 2102 – Pandemic Unemployment Assistance
Iowa Code section 96.4(4)(a) - Unemployment Compensation

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the June 29, 2021 decision that denied Pandemic Unemployment Assistance (PUA) benefits, based on the deputy's conclusion that the claimant did not meet the eligibility requirements. After due notice was issued, a hearing was held on August 24, 2021. Claimant participated. Exhibit A was received into the hearing record. The administrative law judge took official notice of Agency administrative records pertaining to the claimant's claim for benefits, including DBRO, KCCO, WAGE-A, NMRO, the monetary record, the application for PUA benefits, the Assessment for PUA Eligibility, the deputy's notes regarding the denial of PUA, and the May 27, 2021, reference 01, decision.

The administrative law judge left the hearing record open until August 26, 2021 for the limited purpose of allowing the claimant the opportunity to submit (1) a complete work search log for the period of March 7, 2021 through June 12, 2021, (2) medical documentation related to COVID-19 diagnoses, and (3) any other documentation in support of the claimant's appeal of the PUA denial decision.

On August 26, 2021, the claimant submitted materials that did not include a work search log. The claimant submitted six pages consisting of portions of medical records, which materials were received into evidence as Exhibit B. The claimant submitted a single-page Quantum Transformations brochure/package offer, which document was received into evidence as Exhibit C.

ISSUE:

Is the claimant eligible for PUA?

FINDINGS OF FACT:

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

The claimant is not currently employed. The claimant was most recently employed by Sedgwick Claims Management Services, Inc. as a full-time leave of absence and claims processor. The

claimant's work hours were 9:00 a.m. to 5:00 p.m., Monday through Friday, plus overtime as required. The claimant most recently performed work for Sedgwick on December 20, 2020. During the first quarter of 2020, the employer had the claimant transition from working in an office to working from home. The transition to the home-based work was in response to the COVID-19 pandemic. The claimant continued to perform the same work.

From August 15, 2020 until her return to work on or about October 5, 2020, the claimant was on an approved leave of absence. On August 15, 2020, the claimant presented at the University of Iowa ILI Respiratory Clinic with COVID-like symptoms and was referred for outpatient COVID-19 testing. On August 17, 2020, the claimant underwent a COVID-19 test and tested positive for COVID-19. The claimant received her test results on August 17, 2020. The claimant has omitted from her submission of medical documentation materials that would indicate any recommendation to self-quarantine or the duration of any recommended quarantine. The claimant has provided an appointment scheduling document indicating the claimant took steps on September 17, 2020 to schedule a September 23, 2020 appointment with an internal medicine specialist. There is nothing in or about the appointment document that indicates the internal medicine appointment had any connection with the August 17, 2020 positive COVID-19 test result. The claimant has presented a medical excuse dated September 30, 2020 that indicates she should be excused from work until October 5, 2020. There is nothing in or about the September 30, 2020 medical excuse that indicates a connection with the August 17, 2020 positive COVID-19 test result. A reasonable person would conclude, per Centers for Disease Control (CDC) guidelines that the claimant would have need to self-quarantine for 10 to 14 days measured from the August 15, 2020 onset of symptoms. That would mean a quarantine period ending sometime between August 25, 2020 and August 29, 2020.

When the claimant returned to work on or about October 5, 2020, she did so on a part-time basis. The claimant advises that she returned to full-time employment within two weeks of her return, which would mean that the claimant was working full-time as of October 19, 2020.

Effective December 20, 2020, the claimant began what she believed to be second approved leave of absence. The claimant advises that she submitted a leave claim through the employer's leave processing center. The claimant advises that she initially tried to reach her supervisor via email, did not receive a response, and then sent text messages to the supervisor to let the supervisor know that claimant's adult, college-age daughter was ill and undergoing testing for COVID-19. At the time the claimant went off work in December 2020, the claimant's household consisted of the claimant, her college-aged daughter, and her son, a high school senior. The claimant has provided no documentation to substantiate that she requested a leave, that her daughter had symptoms consistent with COVID-19, or that her daughter underwent COVID-19 testing. The claimant advises that her leave period was open-ended and that her supervisor had just asked the claimant to let the supervisor know when the claimant was ready to return to work. The claimant asserts she planned to return to work on February 2, 2021. The claimant asserts the University of Iowa Hospitals and Clinics (UIHC) diagnosed her daughter with COVID-19 at the end of December 2020. The claimant asserts that her daughter initially became quite ill. The claimant asserts that by the end of January 2021, the claimant's daughter had recovered to the point where the daughter no longer needed the claimant's assistance. The claimant advises that her daughter had fully recovered by February 7, 2021. The claimant has provided no evidence.

After the claimant went off work in December 2020, she was also dealing with a non-COVID-19 crisis situation involving her mother's living arrangements. The claimant needed to assist her mother in finding a less expensive place to rent.

Before the claimant could return to work, and before she reached the end of what she believed was an approved leave of absence, she received a letter regarding cancellation of her employer-sponsored health insurance. The letter indicated the employment had terminated on January 28, 2021. The claimant contacted her manager in response to receiving the document. The claimant's supervisor stated the claimant had been away from work too long and that the claimant had refused to return to work. The supervisor questioned the claimant regarding whether the claimant had indeed contacted the leave processing center regarding her request for a leave of absence. The claimant told she employer she had contacted the leave processing center on December 21, 2020. The claimant told the supervisor she had emailed the supervisor twice, but had received no response.

The claimant filed an original claim for unemployment insurance benefits that was effective March 7, 2021. No one in the claimant's household has been sick with or exposed to COVID-19 since the claimant established the claim for benefits.

Iowa Workforce Development deemed the claimant "monetarily eligible" for benefits based on her base period wages from Sedgwick and set a \$457.00 weekly benefit amount. The claimant made weekly claims for each of the weeks between March 7, 2021 and July 10, 2021, but did not receive benefits in connection with the weekly claims.

On May 27, 2021, an Iowa Workforce Development Benefits Bureau representative entered a reference 01 decision that disqualified the claimant for regular benefits, based on the deputy's conclusion that the claimant refused recall to suitable work with Sedgwick on January 18, 2021. The claimant did not appeal the reference 01 decision and the disqualification decision became final.

Once the claimant established her claim for benefits, she did not search for new employment. The claimant asserts she was under the impression that conducting a search for new employment was optional. The claimant balks when advised that she is required to meet the PUA availability requirement to be eligible for PUA benefits. Even though the claimant did not make a search for new employment, the claimant consistently reported two or three employer contacts with each weekly claim. The claimant has not kept a work search log. The administrative judge provided the claimant with two days beyond the hearing date to present the work search log claimants are required to keep. The claimant advises she is unable to work anywhere that would require a mask and asserts that wearing a mask would impede her "holistic healing" from her 2020 COVID-19 illness because it would force her to breathe her own carbon dioxide respiratory waste.

Since the claimant established her claim for benefits, she has spent a substantial amount of time attempting to resurrect a self-employment venture she pursued prior to her employment with Sedgwick. The claimant advises she is a Stress Management Practitioner. The claimant has spent about 25 hours a week engaged in that venture, which includes commuting to Des Moines and volunteering. The claimant asserts that the self-employment venture does not impede her search for new employment despite the substantial time commitment.

On June 4, 2021, the claimant submitted an application for Pandemic Unemployment Assistance (PUA). On June 29, 2021, and Iowa Workforce Development Benefits Bureau deputy denied PUA benefits, based on the deputy's conclusion that the claimant's unemployed status was not COVID-19 related.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.4(4)(a) provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

4. a. The individual has been paid wages for insured work during the individual's base period in an amount at least one and one-quarter times the wages paid to the individual during that quarter of the individual's base period in which the individual's wages were highest; provided that the individual has been paid wages for insured work totaling at least three and five-tenths percent of the statewide average annual wage for insured work, computed for the preceding calendar year if the individual's benefit year begins on or after the first full week in July and computed for the second preceding calendar year if the individual's benefit year begins before the first full week in July, in that calendar quarter in the individual's base period in which the individual's wages were highest, and the individual has been paid wages for insured work totaling at least one-half of the amount of wages required under this paragraph in the calendar quarter of the base period in which the individual's wages were highest, in a calendar quarter in the individual's base period other than the calendar quarter in which the individual's wages were highest. The calendar quarter wage requirements shall be rounded to the nearest multiple of ten dollars.

The claimant is not monetarily eligible for regular unemployment insurance benefits funded by the State of Iowa because the claimant lacks qualified earnings in his base period.

Public Law 116-136, the CARES Act, at Section 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. Section 2012 provides Pandemic Unemployment Assistance PUA benefits to qualified individuals who were not eligible for regular compensation or extended benefits under State or Federal law or pandemic emergency unemployment compensation. PL 116-136 Section 2102(a), (b) and (c), provide as follows:

SEC. 2102. PANDEMIC UNEMPLOYMENT ASSISTANCE.

(a) DEFINITIONS. — In this section:

(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 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
- (ll) 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).

(b) ASSISTANCE FOR UNEMPLOYMENT AS A RESULT OF COVID- 19. —

Subject to subsection (c), the Secretary shall provide to any covered individual unemployment benefit assistance while such individual is unemployed, partially unemployed, or unable to work for the weeks of such unemployment with respect to which the individual is not entitled to any other unemployment compensation (as that term is defined in section 85(b) of title 26, United States Code) or waiting period credit.

(c) APPLICABILITY. —

(1) IN GENERAL. — Except as provided in paragraph (2), the assistance authorized under subsection (b) shall be available to a covered individual — (A) for weeks of unemployment, partial unemployment, or inability to work caused by COVID-19— (i) beginning on or after January 27, 2020; and (ii) ending on or before December 31, 2020; and (B) subject to subparagraph (A)(ii), as long as the covered individual's unemployment, partial unemployment, or inability to work caused by COVID-19 continues.

(2) LIMITATION ON DURATION OF ASSISTANCE.—The total number of weeks for which a covered individual may receive assistance under this section shall not exceed 39 weeks and such total shall include any week for which the covered individual received regular compensation or extended benefits under any Federal or State law, except that if after the date of enactment of this Act, the duration of extended benefits is extended, the 39-week period described in this paragraph shall be extended by the number of weeks that is equal to the number of weeks by which the extended benefits were extended.

The Continued Assistance Act (CAA) normally limits backdating PUA claims filed after December 27, 2020 to no earlier than December 1, 2020. Claimant's PUA application was filed on June 4, 2021. However, if an individual filed a regular unemployment insurance benefits claim on or before December 27, 2020, and the State later determines that the individual is not eligible for regular unemployment insurance benefits, the State is to use the date the claimant filed the regular unemployment insurance benefits claim as the date of filing for the PUA claim. See UIPL No. 16-20 Change 4, Page I-19 dated January 8, 2021. The appropriate effective date for considering the PUA application would be March 7, 2021, the effective date of the original claim.

The claimant is not eligible for PUA benefits. The claimant presented insufficient evidence to prove by a preponderance of the evidence that her unemployed status since the March 7, 2021 original claim was caused by COVID-19. Indeed, the claimant presented insufficient evidence to establish that any of the time away from work since December 2020 was caused by COVID-19. Despite being provided additional time and opportunity to submit relevant documentation to substantiate the claimant's assertions, the claimant presented no documentation whatsoever to connect her time off work since December 2020 with a COVID-19 cause. In addition, the evidence establishes that the claimant has not been available for work within the meaning of the law since she established the original claim that was effective March 7, 2021. The claimant balks at the suggestion that she was required to be available for work, even though the CARES Act explicitly states as much. The claimant's application for PUA benefits is denied.

DECISION:

The June 29, 2021 decision that denied Pandemic Unemployment Assistance (PUA) benefits is affirmed. The claimant is not eligible for PUA benefits.



James E. Timberland
Administrative Law Judge

November 18, 2021
Decision Dated and Mailed

jet/kmj