

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**TATIANA A LOVE**  
Claimant

**APPEAL 21A-DUA-00192-AW-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 03/15/20  
Claimant: Appellant (4R)**

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PL 116-136, Sec. 2012 – Federal Pandemic Unemployment Assistance

**STATEMENT OF THE CASE:**

Claimant filed an appeal from the Iowa Workforce Development decision dated December 15, 2020 that determined claimant was not eligible for Pandemic Unemployment Assistance (PUA) benefits. Claimant was properly notified of the hearing. A telephone hearing was held on February 6, 2021, at 10:00 a.m. Claimant participated in the hearing. No exhibits were admitted. Official notice was taken of the administrative record.

**ISSUE:**

Whether claimant is eligible for Pandemic Unemployment Assistance.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant filed an initial claim for benefits effective March 15, 2020. Claimant exhausted unemployment insurance (UI) benefits the week ending May 30, 2020. Claimant exhausted Pandemic Emergency Unemployment Compensation (PEUC) benefits the week ending August 29, 2020. Claimant exhausted Extended Benefits (EB) the week ending October 10, 2020. Claimant applied for PUA.

Claimant has been employed with CCW, LLC (d/b/a HuHot) as a part-time server since October 31, 2019. In March 2020, HuHot closed pursuant to a government mandate closing restaurants. Claimant returned to work April 17, 2020 but worked less than her regular hours. Prior to March 2020, claimant worked 20 – 30 hours per week. After April 17, 2020, claimant worked 4 – 6 hours per week. Claimant attributes the reduction in hours to the restaurant's limited occupancy.

Claimant was employed as a part-time Crew Member with FMDAV, LLC (d/b/a Pancheros) from August 30, 2020 until her employment ended on November 15, 2020. Claimant worked approximately 10 – 15 hours per week. Claimant's employment ended when she was discharged due to attendance. Claimant attributes her attendance issues on her lack of child care due to Covid-19.

Claimant has four children ages nine, seven, five and two years. The children's schools and daycares closed in March 2020 and remained closed for the rest of the 2019/2020 school year. The children were not in claimant's primary physical care from June 1, 2020 until August 9, 2020; the children spend the summer with their father. The children returned to school on August 9, 2020. The school is a hybrid of in-person and online learning. When the children are learning online, claimant must be at home with them. The children were on winter break from school from December 23, 2020 until January 15, 2021. Claimant does not have alternate childcare.

Claimant filed weekly claims from March 15, 2020 until January 30, 2021. Claimant reported earnings on three of her weekly claims. The issues of whether claimant has accurately reported her wages and whether she has been overpaid benefits has not been the subject of an investigation and decision.

Claimant has not had symptoms of Covid-19. No one in claimant's household has been diagnosed with Covid-19. Claimant was advised by a medical professional to quarantine from April 19, 2020 until May 2, 2020. Claimant's child has an underlying medical condition that places her at higher risk for Covid-19. Claimant was not advised by the child's physician to quarantine. Claimant has not been scheduled to begin new employment and had that employment cancelled due to Covid-19.

#### **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes:

The Coronavirus Aid, Relief, and Economic Security (CARES) 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.

The issue to be determined here is whether claimant is a "covered individual" who is eligible to receive benefits within the meaning of applicable law.

Section 2102 of the CARES Act describes a covered individual as follows:

(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)(I).

In this case, claimant was eligible for UI, PEUC and EB from March 15, 2020 until October 10, 2020. An individual cannot be eligible for PUA if she is eligible for UI, PEUC or EB. Therefore, claimant is not eligible for PUA from March 15, 2020 until October 10, 2020.

Since October 10, 2020, claimant's children have been attending school online and in-person due to Covid-19. When the children's school is closed and they are learning online, claimant must be present with the children at home. Claimant is unable to work when the children are attending school online at home; claimant does not have alternate childcare. The children's schools were closed for winter break from December 23, 2020 until January 15, 2021; this closure was not due to Covid-19. Therefore, claimant meets the requirements of subparagraph (dd) above from October 10, 2020 until December 23, 2020 and again effective January 15, 2021.

Claimant does not meet any of the other eligibility requirements outlined above.

The issues of whether claimant has accurately reported her wages and whether she was overpaid benefits will be remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and decision.

**DECISION:**

The Iowa Workforce Development decision dated December 15, 2020 that determined claimant was not eligible for Pandemic Unemployment Assistance (PUA) benefits is modified in favor of appellant. Claimant meets the requirements of subparagraph (dd) and, thus, is eligible for PUA from October 10, 2020 until December 23, 2020 and effective January 15, 2021.

**REMAND:**

The issues of whether claimant has accurately reported her wages and whether she was overpaid benefits is be remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and decision.



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Adrienne C. Williamson  
Administrative Law Judge  
Unemployment Insurance Appeals Bureau  
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February 22, 2021  
Decision Dated and Mailed

acw/scn