

BEFORE THE  
EMPLOYMENT APPEAL BOARD  
Lucas State Office Building  
Fourth floor  
Des Moines, Iowa 50319

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ROBERT J DONAHUE

Claimant

HEARING NUMBER: 20BUI-02531

EMPLOYMENT APPEAL BOARD  
DECISION

N O T I C E

**THIS DECISION BECOMES FINAL** unless (1) a **request for a REHEARING** is filed with the Employment Appeal Board within **20 days** of the date of the Board's decision or, (2) a **PETITION TO DISTRICT COURT** IS FILED WITHIN **30 days** of the date of the Board's decision.

**A REHEARING REQUEST** shall state the specific grounds and relief sought. If the rehearing request is denied, a petition may be filed in **DISTRICT COURT** within **30 days** of the date of the denial.

**SECTION:** 96.6-4

D E C I S I O N

**UNEMPLOYMENT BENEFITS ARE DENIED**

The Claimant appealed this case to the Employment Appeal Board. The members of the Employment Appeal Board reviewed the entire record. The Appeal Board finds the administrative law judge's decision is correct. The administrative law judge's Findings of Fact and Reasoning and Conclusions of Law are adopted by the Board as its own. The administrative law judge's decision is **AFFIRMED**.

We write further only to provide additional explain to the Claimant about what our ruling today means.

First, there was some confusion caused by documentation. The 10/2 and 10/16 checks referred to by the Claimant are on the 2<sup>nd</sup> pages of the Attachment 2 and Attachment 3. From what we can tell, he supplied only a one-page attachment 2, and a one-page attachment 3 to the Administrative Law Judge. He did send both pages to us, which is how we spotted the difference. It is possible that the Claimant sent double-sided copies to IWD and these didn't get properly imaged by IWD. In any event, the reason why ALJ does not mention them is she did not see them. Not discussing these payments had nothing to do with excluding mileage, which exclusion is correct under rule 23.3(2)(b). In any event, none of this makes in difference in the case before us. The **only** issue before us is whether the Claimant was eligible under the base period.

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The regular base period for a claim filed on March 15, 2020, as this one was, skips the quarter of filing, skips the quarter before that, and then includes the next four quarters. *E.g. Stanley v. EAB*, No. 16-2047, (Iowa App. 1/10/2018). This means the regular base period for regular UI is the fourth quarter of 2018 through the *third* quarter of 2019. Taking money out of the third quarter of 2019 and putting it in the fourth quarter of 2019, and even adding other money to the fourth quarter of 2019 makes no difference **in the case before us**. In the case before us, the fourth quarter of 2019 is in the lag quarter and is thus **not** in the base period. So, the Claimant's argument about putting more wages in the fourth quarter of 2019 make no difference **in the case before us**.

Now possibly the Claimant can get benefits either under the alternate base period, or he could get Pandemic Unemployment Assistance (PUA). To even be considered for either of these he first must be determined ineligible to collect under the regular unemployment using the regular base period (the issue in this case). So, to be clear, a prerequisite for finding the Claimant eligible under the alternate base period is that he is *ineligible* under the regular base period. Iowa Code §96.4(4)(b) ("For an individual who does not have sufficient wages in the base period, as defined in section 96.19, to otherwise qualify..."). The Administrative Law Judge remanded the issue of alternate base period to the Benefits Bureau at IWD, and that issue is not before us. Since resolution of the issue before us, regular base period, is a prerequisite to determining the alternate base period it is entirely possible the remand on the alternate base period is on hold pending the outcome of this appeal.

Again, the benefit order is regular base period state unemployment (this case), then alternate base period state unemployment, and then other potential federal benefits, and only then possibly PUA. *E.g. Dept. Of Labor, Unemployment Insurance Program Letter 14-20*, p. 6. The alternate base period in this case is all of calendar year 2019, which by coincidence is also the base period for PUA. Using the Claimant's figures, it appears he would be eligible for regular unemployment in the amount of \$175 a week, and that he can claim a maximum 11 weeks (receiving only about \$120 in the last week). On these payments, however, he would be eligible for the Federal Pandemic Unemployment Compensation (the extra \$600) for weeks between March 29, 2020 and July 25, 2020. Furthermore, once he exhausts his 11 weeks of state unemployment if he is still unemployed he may collect an additional 13 weeks of Pandemic Emergency Unemployment Compensation (PEUC). By our calculation it would be in the same amount of \$175 a week, and he would continue to get the FPUC (the \$600) until July 25, 2020. PEUC must be charged off before the claimant could go on PUA. (In fact, it is quite possible, if the Claimant has the misfortune to remain unemployed, that something called Extended Benefits will become available later this year, but it appears even with the alternate base period the Claimant would not be eligible for extended benefits.) This all assumes he remains otherwise available. If at any point he becomes unavailable, and not eligible for State UI or for PEUC, then he may be eligible for PUA in the amount of \$203 a week (plus FPUC before July 25). This depends on his meeting specific criteria for example, being unemployed as a "direct result" of the Pandemic. To find out if he could get PUA, once his other options are exhausted, he will need to file a PUA claim with Iowa Workforce – not us.

We explain all this, but have no authority to actually issue payments. The Administrative Law Judge remanded the matter of the alternate base period to the benefits bureau and the matter remains pending there. We think things will turn out as we have suggested, but that is for the Benefits Bureau to decide, and **then** if the Claimant disagrees he can appeal to the Administrative Law Judge and eventually to us if need be. For today, we affirm the Administrative Law Judge because in the regular base period at issue in this case the Claimant is not eligible since the 4<sup>th</sup> quarter of 2019 is not in the regular base period.

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Our extended discussion is simply to inform the Claimant that he has a lot of options that will likely result in benefits, and he should pursue those. Things are extremely busy in the unemployment system at this point, but if the Claimant continues to be patient we are confident IWD will get to his case and address the issues we have laid out. Finally, the Claimant should continue to file weekly claims, and seek backdating if necessary.

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Ashley R. Koopmans

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James M. Strohman

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Myron R. Linn

RRA/fnv