

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

LAURA CRESSY
Claimant

APPEAL 21A-DUA-00815-DB-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 05/17/20
Claimant: Appellant (4)

PL 116-136 Section 2102 – Pandemic Unemployment Assistance
20 CFR 625 – Disaster Unemployment Assistance
Iowa Code § 96.4(4) – Determination of Benefits

STATEMENT OF THE CASE:

On January 29, 2021, the claimant filed an appeal from the January 23, 2021 Assessment for Pandemic Unemployment Assistance (“PUA”) benefits decision that found she was not eligible for PUA benefits. After due notice was issued, a telephone hearing was held on April 5, 2021. Claimant participated personally. The administrative law judge took official notice of the claimant’s unemployment insurance benefits records.

ISSUE:

Is the claimant eligible for PUA benefits?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant filed her initial claim for regular unemployment insurance benefits funded through the State of Iowa with an effective date of May 17, 2020. Claimant received her maximum benefit amount of \$6,091.30 during the weeks of May 17, 2020 through September 5, 2020. Claimant received her initial 13 weeks of Federal Pandemic Emergency Unemployment Compensation (PEUC) from September 6, 2020 through December 5, 2020. Claimant received no benefits from December 6, 2020 through December 26, 2020. Claimant received additional PEUC benefits beginning December 27, 2020. Claimant filed her application for PUA benefits on January 11, 2021.

Claimant last worked for I.T.A. Group Inc. as a travel director. Claimant only is paid for projects when they occur. She works full-time hours during project time. Her job duties require her to be present in person on location prior to an event, during an event and after an event. When the COVID-19 pandemic occurred, it limited corporate events due to travel restrictions and group gathering restrictions. Claimant last worked an event in January of 2020. She is currently still employed by I.T.A. Group Inc.; however, has not been paid due to no events occurring. Claimant was not paid any sick leave or other paid leave. Claimant is not working projects due to lack of work. She has been otherwise able to and available for work.

REASONING AND CONCLUSIONS OF LAW:

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

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.

Claimant's initial claim for benefits was effective May 17, 2020. Claimant exhausted her maximum benefit amount for regular unemployment insurance benefits and she exhausted her benefit amount for initial PEUC eligibility. She began receiving subsequent PEUC benefits effective December 27, 2020. Claimant can only be eligible for PUA benefits if she is **not** eligible for any other benefits discussed above. As such, the question becomes whether the claimant was eligible for PUA benefits from December 6, 2020 through December 26, 2020 when she was not eligible for any other benefit payments.

The CARES Act was established to provide 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. However, the claimant must be a "covered individual" under the Act. PL 116-136 Section 2102(a), (b), (c), and (h) 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

(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 (I); 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).

(emphasis added).

Disaster Unemployment Assistance was established for the payment of unemployment assistance to unemployed individuals whose unemployment is caused by a major disaster. 20 CFR 625.1.

20 CFR § 625.4 provides in pertinent part:

Disaster Unemployment Assistance.

Eligibility requirements for Disaster Unemployment Assistance.

An individual shall be eligible to receive a payment of DUA with respect to a week of unemployment, in accordance with the provisions of the Act and this part if:

(g) The individual is able to work and available for work within the meaning of the applicable State law; *Provided*, that an individual shall be deemed to meet this requirement if any injury caused by the major disaster is the reason for inability to work or engage in self-employment; or, in the case of an unemployed self-employed individual, the individual performs service or activities which are solely for the purpose of enabling the individual to resume self-employment.

An unemployed worker is defined as an individual who was employed in or was to commence employment in the major disaster area at the time the major disaster began, and whose principal source of income and livelihood is dependent upon the individual's employment for wages, and whose unemployment is caused by a major disaster as provided in § 625.5(a). 20 CFR § 625.2(s).

With regards to an unemployed worker, 20 CFR § 625.5(a) provides that the unemployment of an unemployed worker is caused by a major disaster if –

- (1) The individual has a “week of unemployment” as defined in § 625.2(w)(1) following the “date the major disaster began” as defined in § 625.2(e), and such unemployment is a direct result of the major disaster; or
- (2) The individual is unable to reach the place of employment as a direct result of the major disaster; or
- (3) The individual was to commence employment and does not have a job or is unable to reach the job as a direct result of the major disaster; or
- (4) 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 the major disaster; or
- (5) The individual cannot work because of an injury caused as a direct result of the major disaster.

Unemployment is a direct result of the major disaster as provided for in 20 CFR § 625.5(c), which provides:

For the purpose of paragraphs (a)(1) and (b)(1) of this section, a worker's or self-employed individual's unemployment is a direct result of the major disaster where the unemployment is an immediate result of the major disaster itself, and not the result of a longer chain of events precipitated or exacerbated by the disaster. Such an individual's unemployment is a direct result of the major disaster if the unemployment resulted from:

- (1) The physical damage or destruction of the place of employment;
- (2) The physical inaccessibility of the place of employment in the major disaster area due to its closure by or at the request of the federal, state or local government, in immediate response to the disaster; or
- (3) Lack of work, or loss of revenues, provided that, prior to the disaster, the employer, or the business in the case of a self-employed individual, received at least a majority of its revenue or income from an entity in the major disaster area that was either damaged or destroyed in the disaster, or an entity in the major disaster area closed by the federal, state or local government in immediate response to the disaster.

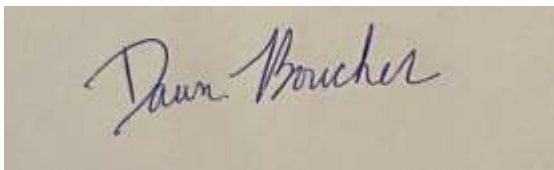
UIPL No. 16-20, Change 5 provides guidance and states that “[t]he Department expands PUA eligibility to include three COVID-19 related reasons under which an individual may self-certify. This expansion is made under the authority provided by Section 2101(a)(3)(A)(ii)(I)(kk) of the CARES Act.” One of the three reasons includes individuals experiencing a temporary or permanent lay-off. It further states that “[t]he additional eligibility provisions apply retroactively to the beginning of the PUA program, though individuals who did not file an initial PUA claim on or before December 27, 2020 are limited to weeks of unemployment beginning on or after December 6, 2020.”

In this case, the claimant therefore meets the requirements of PL 116-136 Section 2102(a)(3)(A)(i) effective December 6, 2020 as she had exhausted all regular unemployment benefits, all Federal PEUC benefits and other benefits at that time; however, she must also meet the requirements of PL 116-136 Section 2102(a)(3)(A)(ii) to qualify as a “covered individual” under the CARES Act. PL 116-136 Section 2102(a)(3)(A)(ii)(I) establishes that the claimant must provide self-certification that she is otherwise able to work and available for work within the meaning of applicable State law, except that she is unemployed, partially unemployed, or unable or unavailable to work because of one of the enumerated reasons listed in (aa) through (II). PL 116-136 Section 2102(a)(3)(A)(ii)(I)(aa)-(II).

The claimant was unemployed due to her layoff/lack of work from work as enumerated in PL 116-136 Section 2102(a)(3)(A)(ii)(I)(kk) and pursuant to UIPL No. 16-20, Change 5. As such, PUA benefits are allowed effective December 6, 2020 through December 26, 2020 pursuant to PL 116-136 Section 2102(a)(3)(A)(ii)(I)(kk) as the claimant was laid off due to lack of work directly caused by the COVID 19 pandemic. PUA benefits are denied for any other weeks in which the claimant was eligible for other benefits.

DECISION:

The January 23, 2021 Assessment for Pandemic Unemployment Assistance (PUA) benefits decision denying PUA benefits is modified in favor of the appellant. Pandemic Unemployment Assistance (PUA) benefits are allowed effective December 6, 2020 through December 26, 2020 under PL 116-136 Section 2102(a)(3)(A)(ii)(kk), and provided the claimant remains otherwise eligible. PUA benefits are denied effective December 27, 2020 as the claimant was eligible for PEUC benefits at that time.

A handwritten signature in blue ink that reads "Dawn Boucher". The signature is written in a cursive, flowing style.

Dawn Boucher
Administrative Law Judge

April 07, 2021
Decision Dated and Mailed

db/ol