

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

CINDY S WOODSIDE
Claimant

APPEAL NO. 21R-DUA-00562-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

OC: 04/12/20
Claimant: Appellant (1)

PL 116-136 Section 2102 – Pandemic Unemployment Assistance

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the September 9, 2020 Assessment for PUA Benefits 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 March 11, 2021. Claimant participated. Exhibits A through D were 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 but not limited to DBRO, KCCO, KPYX, 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, the May 20, 2020, reference 01, decision and associated fact-finding materials, and the September 9, 2021, reference 02, work search warning.

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 established an original claim for benefits that was effective April 12, 2020. Iowa Workforce Development set a weekly benefit amount for regular benefits at \$92.00 and a maximum benefit amount for regular benefits at \$2,375.21. The applicable base period in connection with said claim consisted of the four quarters of 2019. The claimant's base period wages derived entirely from employment with Mid-Steps Services, Inc. and were as follows:

2019/1	1,923.19
2019/2	1,874.72
2019/3	2,124.52
2019/4	1,203.19

The claimant was employed by Mid-Step Services, Inc. as a part-time direct support professional from 2002 and last performed work for that employer at some point between October 21, 2019 and December 2019. The claimant usually worked 12 hours per week, which

included working a Wednesday shift and every other weekend. The claimant assisted intellectually disabled adults with activities of daily living and skills building. The claimant performed the bulk of her duties at the clients' apartment, but would also take clients into the community to go shopping and to attend other events. The claimant adhered to part-time employment due to her own mental health disability and receipt of Social Security Disability Insurance (SSDI) benefits.

At some point during the fourth quarter of 2019, the claimant commenced an approved medical leave of absence due to a chronic gastrointestinal disorder. The claimant advises that the leave began in December 2019, but the leave likely started earlier in the fourth quarter of 2019. While the claimant's doctor had not taken her off work, the unpredictability of the claimant's gastrointestinal issues made it difficult for her to work.

The claimant and the employer participated in a fact-finding interview on May 19, 2020 that addressed the claimant's separation from the employment. The claimant told the deputy that she had cellulitis on March 17, 2020, while she was already on the leave of absence for the medical issue. The claimant told the deputy she was hospitalized until March 19, 2020, and had a follow-up visit with her doctor on March 24, 2020. The claimant told the deputy she was released to return to work as of March 24, 2020, but did not return that day because of another health issue. Though the claimant testified at the PUA appeal hearing that she was unaware that the employer had expected her to return on April 6, 2020, the claimant told the deputy on May 19, 2020 that she had planned to return on April 6, 2020, but did not report for work that day and did not contact the employer because she lacked a phone. However, the claimant also told the deputy that she sent a text message to the employer. On April 12, 2020, the employer determined that the claimant had voluntarily quit and declined to allow the claimant to return at that time. The claimant advises that she was wary of returning to the employment in light of the COVID-19 pandemic. The claimant's doctor has not at that point advised the claimant to forego returning to work.

On May 20, 2020, an Iowa Workforce Development Benefits Bureau deputy entered a reference 01 decision that deemed the claimant to have voluntarily quit the Mid-Step employment effective April 12, 2020 without good cause attributable to the employer. The reference 01 decision disqualified the claimant for regular benefits until she worked in and was paid wages for insured work equal to 10 times her weekly benefit amount. The claimant appealed the reference 01 decision, but defaulted on that appeal.

The claimant did not look for new employment during the time of her leave of absence and elected not to look for new employment after separating from Mid-Step Services.

The claimant made weekly claims for each week between April 12, 2020 and January 2, 2021. The claimant then discontinued her weekly claims. The claimant reported zero job contacts for each claim week.

At the time the claimant established her original claim for benefits, Iowa Workforce Development had waived the work search requirement for all claimants. IWD continued to waive the work search requirement through September 5, 2020.

On September 9, 2020, IWD Benefits Bureau issued a reference 02 work search warning that reminded the claimant that she was required to make at least two employer contacts each claim week and that warned she could be disqualified for future weeks in which she made less than two employer contacts per week. The claimant then reported two job contacts when she made her weekly claim for the week that ended September 12, 2020, though she had made no job

contacts. On September 15, 2020, the claimant obtained a note from her doctor. The note stated as follows:

Cynthia S. Woodside has been under my care.
She may not return to work at this time due to her underlying medical problems.
Due to the COVID-19 pandemic she is at extreme risk due to her immune compromised state and should not return to work at this time.

The claimant advises her health issues include psoriatic arthritis, rheumatoid arthritis, and degenerative disc disease.

The claimant missed the October 13, 2020 PUA appeal hearing in 20A-UI-00390-NM-T. The claimant contacted the Appeals Bureau on November 20, 2020. In her December 15, 2020 appeal letter to the Employment Appeal Board, the claimant advised that she had not received the notice for the October 13, 2020 hearing because she had been in Burlington for the preceding month while her father was in the hospital and in hospice and while the claimant made funeral arrangements for her father. The claimant advises that her father's passing and the passing of an aunt had a substantial impact on the claimant's mental wellbeing. In other words, the claimant was not mentally able to working at the time she obtained the September 15, 2020 doctor's note regarding her other health issues and continued not to be mentally able to work through January 2, 2021, when she discontinued her claim for benefits.

The claimant has not contracted COVID-19 and has not been tested for COVID-19. The claimant lives alone.

The claimant has no self-employment. The claimant has had not job offers.

The claimant received her first COVID-19 vaccination shot at the end of February or beginning of March 2021 and was scheduled to receive her second shot on March 22, 2021.

On August 20, 2020, the claimant submitted an application for Pandemic Unemployment Assistance (PUA). The claimant characterize herself as someone who was unable to reach her place of employment because of a quarantine imposed as a direct result of the COVID-19 public health emergency. The claimant indicated in her application for PUA that, "Due to my health issues and lower immunity I need to distance myself and quarantine as much as possible to keep my health as fair as possible." The claimant indicated she had last worked for the employer on April 12, 2020, but that was not accurate information. The claimant self-certified that she was able to work and available for work but for one of the COVID-19 reasons set forth at section 2102 of the CARES Act.

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 was monetarily eligible for regular unemployment insurance benefits funded by the State of Iowa, but was disqualified for regular benefits based on a disqualifying separation.

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 claimant is not eligible for PUA benefits. The weight of the evidence establishes that the claimant did not return to the employment on April 6, 2020 in part because she was concerned about being exposed to COVID-19 in the course of performing her duties. The claimant has multiple health conditions that multiple health issues that placed her at increased risk in the context of the COVID-19 pandemic. This is reinforced by the note the claimant obtained from her doctor on September 15, 2020. However, the evidence also establishes the claimant has other, non-COVID-19 related issues that favored in the separation from the employment and that prevented her from being able to work and available for work. Throughout the period when the claim was active.

DECISION:

The September 9, 2020 Assessment for PUA Benefits is affirmed. The claimant is not eligible for PUA benefits.

A handwritten signature in black ink that reads "James E. Timberland". The signature is written in a cursive, flowing style.

James E. Timberland
Administrative Law Judge

June 29, 2021
Decision Dated and Mailed

jet/scn