

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

RENEE BREITBACH
Claimant

APPEAL 21A-DUA-01527-SN-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 04/26/20
Claimant: Appellant (1)

PL 116-136, Sec. 2102 – Federal Pandemic Unemployment Assistance

STATEMENT OF THE CASE:

On May 20, 2021, the claimant, Renee Breitbach, appealed the assessment for Pandemic Unemployment Assistance (PUA) decision dated May 7, 2021 that denied PUA benefits. A hearing was scheduled for July 20, 2021. Official notice was taken of the agency records. Exhibits A and B were received into the record.

ISSUE:

Is the claimant eligible for Pandemic Unemployment Assistance?

FINDINGS OF FACT:

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

The claimant filed the application for PUA on January 30, 2021. On the claimant's application for PUA she provided information about herself. The claimant wrote the reason for being unemployed, "I am unable to reach my place of employment because I have been advised by a health care provider to self-quarantine due to concerns related to Covid-19." The claimant explained she was the sole caretaker of her husband until February 2021, when he passed away.

The claimant last worked at Four Oaks. She stated working for this employer in 1993. She was most recently a shift leader prior to taking a leave of absence from March 26, 2020 to June 1, 2020.

On March 26, 2020, the claimant requested to take a leave of absence due to concerns related to her husband, Edward William Breitbach's, health concerns.

On April 2, 2020, the claimant obtained a note from her physician ordering her to remain off of work "for the foreseeable future" due to several of Mr. Breitbach's underlying medical conditions which inhibited his immune system. (Exhibit B)

On June 1, 2020, the claimant returned to work. The claimant worked her regular hours after that point until she quit in March 2021.

On February 9, 2021, Mr. Breitbach passed away. The claimant provided a copy of Mr. Breitbach's death certificate dated February 10, 2021. (Exhibit A)

On May 7, 2021, the claimant received an assessment for PUA benefits determining she should be denied PUA benefits. The decision gave the claimant until May 20, 2021 to file an appeal. The claimant filed her appeal on May 20, 2021.

The following section outlines the claimant's receipt of regular unemployment, Pandemic Emergency Unemployment Compensation and extended benefits:

The claimant filed a claim for benefits effective April 26, 2020. The claimant made weekly claims from the week ending May 2, 2020 to the week ending May 30, 2020. The claimant initially received benefits during this period. She was later determined to be disqualified by an administrative law judge's decision, 21R-UI-00985-AW-T.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes timeliness was listed on the hearing notice in error because the claimant filed her appeal within the appeal period. The administrative law judge concludes the claimant is ineligible for PUA benefits.

The Coronavirus Aid, Relief, and Economic Security 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.

That period was subsequently extended through the week ending March 13, 2021 and, in some cases, through the week ending April 10, 2021. See Consolidated Appropriations Act of 2021. On March 11, 2021, the President signed into law another extension for PUA benefits until September 4, 2021. Governor Kim Reynolds has limited eligibility for PUA benefits to weeks occurring before June 12, 2021.

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

The issue to be determined here is whether claimant is a "covered individual" within the meaning of applicable law. Section 2102(a)(3) defines individuals who are eligible for PUA benefits.

(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

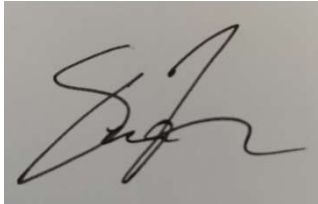
(ii) an individual who is receiving paid sick leave or other paid leave benefits, regardless of whether the individual meets a qualification described in items (aa) through (kk) of subparagraph (A)(i)(I).

As stated above, the claimant must show she is a "covered individual" within the meaning of applicable law.

The claimant did not file her claim until May 7, 2021. The claimant filed her claim after December 27, 2020. She can only backdate her claim to December 6, 2020. See Department of Labor, Unemployment Insurance Program Letter, No. 16-20 Change 4, (January 8, 2021) at pg. 18. As a result, the claimant cannot receive PUA benefits for weeks prior to that date. The administrative law judge is sympathetic to the claimant's circumstances, but her PUA claim cannot be backdated to the date that she can self-certify. As a result, PUA benefits are denied.

DECISION:

The assessment for PUA benefits decision dated May 7, 2021 that determined claimant was ineligible for federal PUA is affirmed. Benefits are denied.

A handwritten signature in black ink, appearing to read 'Sean M. Nelson', is written over a light gray rectangular background.

Sean M. Nelson
Administrative Law Judge
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515) 725-9067

July 28, 2021
Decision Dated and Mailed

smn/kmj