

**BEFORE THE  
EMPLOYMENT APPEAL BOARD  
Lucas State Office Building, 4<sup>TH</sup> Floor  
Des Moines, Iowa 50319  
eab.iowa.gov**

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<b>MARIA D LOPEZ LINARES</b>	:	<b>HEARING NUMBER: 22B-UI-11212</b>
	:	
Claimant	:	
	:	
and	:	<b>EMPLOYMENT APPEAL BOARD</b>
	:	<b>DECISION</b>
	:	
<b>SWIFT PORK COMPANY</b>	:	
	:	
Employer	:	

**NOTICE**

**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:** 96.4-3, 96.6-2

**DECISION**

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. With the following modification, 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** with the following **MODIFICATION**:

*Conversion to Pandemic Unemployment Assistance (PUA):* The Department of Labor allows a state to convert a UI claim to a PUA claim without having the claimant file a new application. *UIPL, 16-20, Attachment I, Change 1*, p. I-2 (DOL ETA 4/27/2020). Certainly by the time of the Administrative Law Judge hearing in this matter the Claimant had supplied sufficient information in sworn statements to constitute a self-certification that he was not working due to a covered reason, being sick with COVID-19. For this reason we will now convert the Claimant's regular benefit claim to a PUA claim as allowed by the Department of Labor.

Since the Claimant filed a regular UI claim on May 31, 2020 and is now found ineligible for that claim, she falls under the federal backdating provisions. We are therefore empowered to convert this claim into a PUA claim, and to backdate that claim to May 31, 2020. [Attachment I to UIPL No. 16-20, Change 4](#), p. I-18 to I-19 (DOL ETA 1/8/21); [UIPL No. 16-20, Change 5](#), p. 12 (DOL ETA 1/8/21).

We are converting the claim to a PUA claim today, and backdating it to May 31, 2020 as allowed by federal law. *Attachment III to UIPL No. 16-20 Change 4*, p. III-1 (DOL ETA 1/8/2021). This means that the period of the leave at issue in this case will be within the Pandemic Assistance Period and may be compensable for PUA benefits, if the Claimant is otherwise eligible for those benefits.

*Merits of PUA Claim:* The Coronavirus Aid, Relief, and Economic Security Act, Public Law 116-136, Sec. 2102, in conjunction with the Continued Assistance Act, Public Law No: 116-260, and the American Rescue Plan Act, Public Law No: 117-2, provide for unemployment benefit assistance to any covered individual for any weeks beginning on or after January 27, 2020 and ending, in Iowa, on or before June 12, 2021, during which the individual is unemployed, partially unemployed, or unable to work due to COVID-19.

Under the CARES Act, an individual who is sick with COVID-19 and unable to work, but otherwise would be able to work, is allowed benefits. CARES Act §2102(a)(3)(A)(ii)(I)(aa) (“the individual has been diagnosed with COVID-19 or is experiencing symptoms of COVID-19 and seeking a medical diagnosis”). Given our findings of fact, and these provisions we find the Claimant is **eligible for PUA** during the period of unemployment caused by the Claimant’s being sick with COVID-19. Based on the current state of the record benefits are allowed from May 31, 2020 until June 20, 2020. Since the Claimant filed in the second quarter of 2020, and since her benefit amount exceeds \$203, she is allowed the same \$460 per week that she got in regular benefits. The Claimant is **approved for \$1,380 in PUA benefits**.

To be clear, we currently award the Claimant \$460 a week **in federal PUA benefits** for the three weeks from May 31, 2020 through June 20, 2020. Since his regular benefit overpayment of \$1,380 cannot be waived that overpayment still stands. But Claimant is award the exact same amount, \$1,380, in PUA benefits. Claimant may want to use our PUA award to pay down that overpayment, if she has not already paid back that overpayment.

#### **DECISION:**

The administrative law judge’s decision dated August 19, 2022 is **AFFIRMED ON THE ISSUE OF REGULAR BENEFIT DENIAL**.

**PUA BENEFITS ARE ALLOWED.** The Employment Appeal Board concludes that the Claimant is eligible for Pandemic Unemployment Assistance in the amount of \$460 for the three weeks between May 31, 2020 and June 20, 2020.

Usted es elegible para la Asistencia de Desempleo por la Pandemia por un monto de \$460 durante las tres semanas entre el 31 de mayo de 2020 y el 20 de junio de 2020

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James M. Strohman

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Ashley R. Koopmans

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Myron R. Linn

RRA/sh