

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

FONA K HOLTRY

Claimant

: **APPEAL NUMBER:** 22B-DUA-00081

: **ALJ HEARING NUMBER:** 22A-DUA-00081

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: **EMPLOYMENT APPEAL BOARD
DECISION**

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SECTION: 10A.601 Employment Appeal Board Review

DECISION

FINDINGS OF FACT:

A hearing in the above matter was held October 12, 2022. The issue to be determined is whether the Claimant is eligible for Pandemic Unemployment Assistance (PUA) benefits. The Claimant did not appear for or participate in the hearing. The administrative law judge's decision was issued October 14, 2022, which has been appealed to the Employment Appeal Board. That decision determined the Claimant who did not appear or participate in the hearing “defaulted pursuant to Iowa Code section 17A.12(3)...” and the previous decision remained in effect.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 10A.601(4) (2019) provides:

5. Appeal board review. The appeal board may on its own motion affirm, modify, or set aside any decision of an administrative law judge on the basis of the evidence previously submitted in such case, or direct the taking of additional evidence, or may permit any of the parties to such decision to initiate further appeals before it. The appeal board shall permit such further appeal by any of the parties interested in a decision of an administrative law judge and by the representative whose decision has been overruled or modified by the administrative law judge. The appeal board shall review the case pursuant to rules adopted by the appeal board. The appeal board shall promptly notify the interested parties of its findings and decision.

We note that Pandemic Unemployment Assistance is a federal benefit. The handbook that the federal government issued to guide unemployment appeals disapproves of a technical approach to the hearings, and requires the Administrative Law Judge to inquire into matters. *ETA Handbook No. 382*, 3rd Edition. Generally, that handbook disapproves of defaults. Also in PUA cases there is only one party, and there is therefore no second party to be disadvantaged or inconvenienced by simply calling a previously supplied number. Put together we think that in PUA cases where a claimant has previously supplied a number, but failed to register through confusion over the notice, that the purposes of this federal disaster benefit are better served if the supplied number is at least called, rather than through a default. We therefore set aside the default and remand this case.

DECISION:

The decision of the administrative law judge dated October 14, 2022 is not vacated and remains in force unless and until the Department makes a differing determination pursuant to this remand. This matter is remanded to an administrative law judge who shall conduct a hearing following due notice. After the hearing, the administrative law judge shall issue a decision which provides the parties appeal rights.

Please note the way you appear at the hearing has changed. When you receive the Notice of Hearing, please read and follow the instructions carefully.

James M. Strohman

Ashley R. Koopmans

Myron R. Linn

AMG/fnv