

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

KRYSTAL PAGE
Claimant

APPEAL 21A-DUA-01684-SN-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

OC: 03/15/20
Claimant: Appellant (1)

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

STATEMENT OF THE CASE:

On July 16, 2021, the claimant appealed the assessment for Pandemic Unemployment Assistance (PUA) decision dated July 7, 2021 that denied benefits. A hearing was scheduled for August 14, 2021. The claimant participated and was represented by Bruce Stoltze, attorney at law. The administrative law judge took official notice of the administrative records. Exhibit A was 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, Krystal Page, filed the application for PUA on July 7, 2021. On the claimant's application for PUA she provided information about herself. The claimant wrote the reason for being unemployed, "My place of employment is closed as a direct result of the Covid19 public health emergency."

The claimant last worked for Wasabi W Dinning Group LLC from October 2, 2019 to March 16, 2020. On March 16, 2020, Wasabi W Dinning Group LLC closed down due to Governor Kim Reynold's proclamation closing down all restaurants due to the Covid19 pandemic.

On July 16, 2020, Wasabi W Dinning Group LLC reopened to provide outdoor seating on their patio. The amount of hours they were willing to provide the claimant was insufficient to maintain her apartment lease.

The claimant decided to move to La Quinta California in August 2020 to live with her aunt and uncle.

The following section describes the claimant's receipt and eligibility for other benefits:

The claimant filed for unemployment insurance benefits on March 15, 2020. The claimant filed for and received regular unemployment benefits from the week ending March 21, 2020 to the week ending July 18, 2020. On April 13, 2021, a representative issued a decision, reference 01, which denied benefits effective July 16, 2020 because she voluntarily quit her employment without good cause attributable to the employer. This decision was affirmed by an administrative law judge in 21A-UI-13316-AR-T.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant is not eligible 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

(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).

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

The first threshold the claimant needs to clear is to show she satisfies Section 2102(a)(3)(i) by showing she is ineligible for regular unemployment, extended benefits and PEUC benefits. The claimant was determined ineligible for benefits effective July 16, 2020 in a representative's April 13, 2021 decision, reference 01. This decision was affirmed by an administrative law judge in 21A-UI-13316-AR-T. 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)(stating at pg. I-19 initial claims filed after December 27, 2020 can only be back dated to December 7,

2020 in states with Sunday week end date). As a result, the claimant cannot receive PUA benefits for weeks prior to that date.

As for benefits for unemployment occurring after December 7, 2020, the claimant's unemployment for that period of time arises out of circumstances occurring in the State of California. As a result, she must file in California for this period.

That section provides in part:

(h) RELATIONSHIP BETWEEN PANDEMIC UNEMPLOYMENT ASSISTANCE AND DISASTER UNEMPLOYMENT ASSISTANCE.—Except as otherwise provided in this section or to the extent there is a conflict between this section and section 625 of title 20, Code of Federal Regulations, such section 625 shall apply to this section as if— (1) the term “COVID–19 public health emergency” were substituted for the term “major disaster” each place it appears in such section 625; and (2) the term “pandemic” were substituted for the term “disaster” each place it appears in such section 625.

20 CFR 625.12(a) provides:

(a) Applicable State. The applicable State for an individual shall be that State in which the individual's unemployment is the result of a major disaster.

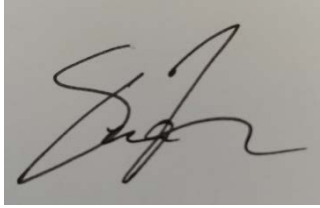
20 CFR 265.8(a) provides:

(a) Initial application. An initial application for DUA shall be filed by an individual with the State agency of the applicable State within 30 days after the announcement date of the major disaster as the result of which the individual became unemployed, and on a form prescribed by the Secretary which shall be furnished to the individual by the State agency. An initial application filed later than 30 days after the announcement date of the major disaster shall be accepted as timely by the State agency if the applicant had good cause for the late filing, but in no event shall an initial application be accepted by the State agency if it is filed after the expiration of the Disaster Assistance Period. If the 30th day falls on a Saturday, Sunday, or a legal holiday in the major disaster area, the 30-day time limit shall be extended to the next business day.

The applicable state for claimant is California, as that was the state in which claimant alleges her unemployment resulted from the pandemic. The claimant must file her application for PUA in that state.

DECISION:

The assessment for PUA benefits decision dated July 7, 2021 that determined claimant was ineligible for federal PUA is affirmed.

A rectangular box containing a handwritten signature in black ink. The signature is stylized and appears to read 'Sean M. Nelson'.

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

August 26, 2021
Decision Dated and Mailed

smn/scn