

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

QUEOLA S FENTON
Claimant

APPEAL 20A-DUA-00859-DZ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 08/16/20
Claimant: Appellant (4)**

PL 116-136, Sec. 2012 – Federal Pandemic Unemployment Assistance
20 CFR 625 – Disaster Unemployment Assistance

STATEMENT OF THE CASE:

Claimant, Queola S Fenton, filed an appeal from the Iowa Workforce Development decision dated October 19, 2020 that determined claimant was not eligible for Pandemic Unemployment Assistance (PUA) benefits. Claimant was properly notified of the hearing. A telephone hearing was held on December 3, 2020, at 3:00 p.m. Claimant participated in the hearing. Official notice was taken of the administrative record.

ISSUES:

Whether claimant is eligible for Pandemic Unemployment Assistance.

FINDINGS OF FACT:

Having reviewed the evidence in the record, the administrative law judge finds: Claimant is currently employed at S2G Support Services Group. The claimant began work there on November 23, 2020 as a full-time customer service representative making \$10/hour. The claimant works all of her hours remotely. The claimant is a single parent and two of her children live with her. One child is age nine and another child is age sixteen.

Claimant's last employment was as a shift manager/guest services lead at Pilot Flying J in Waterloo, Iowa. The claimant began working at Pilot Flying J on September 28, 2018 and her last day was May 8, 2019 when she was discharged.

The claimant moved to Las Vegas, Nevada for personal reasons in August 2020. During the first week of August 2020 the claimant experienced the following symptoms of COVID-19: lack of smell or taste. The claimant quarantined for about three week to make sure that she didn't exposure her children to COVID-19. The claimant did not get tested for COVID-19 because she was concerned about what would happen to her if she tested positive.

Claimant filed an initial claim for unemployment insurance (UI) benefits effective August 16, 2020. Claimant is not eligible for UI due to a lack of sufficient work history. Claimant's children's schools have been closed since August 24, 2020, the first day of the 2020/2021 school year in Las Vegas, Nevada, and remain closed.

No one in claimant's household has been diagnosed with Covid-19. Claimant has not been advised by a medical professional to quarantine due to Covid-19. Claimant has not scheduled to begin new employment, which was cancelled due to Covid-19.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes:

The Coronavirus Aid, Relief, and Economic Security (CARES) 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.

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

Section 2102 of the CARES Act describes a covered individual as follows:

(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).

In this case, the claimant is unemployed and not eligible for UI benefits because she lacks sufficient work history. The claimant does not have wages of at least \$1,700.00 in one quarter and at least \$850.00 in a different quarter of her base period.

The claimant’s children’s schools closed due to COVID-19 on August 24, 2020 and remain closed. The claimant became employed on November 23, 2020. From August 24, 2020 to

November 22, 2020, the claimant was unavailable for work as she was providing ongoing and constant attention to her child such that working from home was not possible. However, beginning November 23, 2020, the claimant became employed. Therefore, the claimant meets the eligibility requirements of subparagraph (dd) for August 24, 2020 to November 22, 2020. The claimant does not meet any of the other eligibility requirements outlined in subparagraphs (aa) – (kk) above from August 16, 2020 to August 23, 2020 and after November 22, 2020.

The claimant is eligible for PUA benefits from August 24, 2020 through November 22, 2020. .

DECISION:

The Iowa Workforce Development decision dated October 19, 2020 that determined claimant was not eligible for Pandemic Unemployment Assistance (PUA) benefits is modified in favor of the appellant. Claimant is eligible for PUA benefits from August 24, 2020 through November 22, 2020.



Daniel Zeno
Administrative Law Judge

December 16, 2020
Decision Dated and Mailed

dz/mh