

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

HARRY K WILSON
Claimant

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

APPEAL 20A-DUA-00500-B2-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/29/20
Claimant: Appellant (1)

PL 116-136, Sec. 2102 – Federal Pandemic Unemployment Assistance
20 CFR 625 – Federal Pandemic Assistance

STATEMENT OF THE CASE:

On October 2, 2020, claimant filed a timely appeal from the Iowa Workforce Development decision dated September 21, 2020 that determined claimant was not eligible for federal Pandemic Unemployment Assistance (PUA).

A telephone hearing was held on October 27, 2020. The parties were properly notified of the hearing. The claimant participated personally and with attorney Jeremy Kulish.

Official notice was taken of the administrative record. Claimant's Exhibit A was admitted into the record.

ISSUE:

Is the claimant eligible for Pandemic Unemployment Assistance?

Is the claimant eligible for Federal Pandemic Unemployment Compensation?

FINDINGS OF FACT:

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

Claimant filed the application for PUA on September 21, 2020. The last day claimant worked was on or around March 20, 2020. Claimant was employed at that time by Hy-Vee as a part-time maintenance worker. In this position, claimant was around customers who may or may not have chosen to wear masks or social distance in a crowded grocery store environment.

Claimant did provide self-certification that he was otherwise able to work and available for work but was unemployed, partially unemployed, or unable or unavailable to work because he is over 80 years of age, has COPD and heart ailments. Telework was not available.

Claimant is not eligible for regular compensation or extended benefits under state or federal law or Pandemic Emergency Unemployment Compensation (PEUC).

Claimant stated that he had received general statements from a supervisor at Hy-Vee that he might wish to take time off during Covid, as he would be at high risk.

REASONING AND CONCLUSIONS OF LAW:

For the reasons set forth below, the Iowa Workforce Development decision dated September 21, 2020 that determined claimant was not eligible for federal Pandemic Unemployment Assistance (PUA) is affirmed.

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" within the meaning of applicable law.

(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).

The administrative law judge finds claimant was not unemployed, partially unemployed, or unable or unavailable to work because of COVID-19 OR 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 and is unable or unavailable to work because of COVID-19.

Specifically, claimant was unable or unavailable to work because he, with the consultation of doctors, made the decision to not continue working, as his job required him to have contact near many people who may or may not have been wearing masks. This unemployment began on or around March 20, 2020 and continues to this date. Claimant's argument that he falls under Sec

(ff) is misplaced, as this section deals specifically with transportation issues. Claimant has not expressed transportation concerns. Additionally, claimant is not qualified under Sec (ii), as claimant's separation did not occur as a direct result, but rather occurred as in indirect result of the Covid. Claimant is otherwise able to work and available for work within the meaning of applicable State law. Claimant is not eligible for regular compensation or extended benefits under State or Federal law or pandemic emergency unemployment compensation. Telework with pay was not available.

DECISION:

The Iowa Workforce Development decision dated September 21, 2020 that determined claimant was not eligible for federal Pandemic Unemployment Assistance (PUA) is affirmed. Claimant does not fall within any of the possibilities that would allow him to be granted benefits.



Blair A. Bennett
Administrative Law Judge

October 30, 2020
Decision Dated and Mailed

bab/sam