

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

DANNIE SPANN
Claimant

APPEAL 21A-DUA-01320-SN-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 05/03/20
Claimant: Appellant (2)

Iowa Code § 96.6(2) – Timeliness of Appeal
PL 116-136, Sec. 2012 – Federal Pandemic Unemployment Assistance

STATEMENT OF THE CASE:

On March 15, 2021, the claimant filed an appeal from the assessment for Pandemic Unemployment Assistance (PUA) decision dated March 12, 2020 that determined claimant was not eligible for federal PUA benefits. A telephone hearing was held on May 28, 2021. The claimant participated personally. The administrative law judge took official notice of the administrative records. Exhibits D-1, D-2, and A were admitted into the record.

ISSUE:

1. Is the claimant's appeal timely? Are there other reasonable grounds to consider it timely?
2. Is the claimant eligible for PUA?

FINDINGS OF FACT:

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

On May 11, 2020, the claimant filed his claim for PUA benefits. On his claim form, the claimant provided the following reason for being unemployed, "My place of employment is closed as a direct result of the Covid19 public health emergency." In a follow up explanation, the claimant said he works as an independent contractor as a high school umpire, restaurant worker and comedian at a local comedy club, all of which were closed due to Covid19.

During the school year, claimant works as a full time campus security monitor for Johnson School District, his principal place of employment. The 2019/2020 school year was cancelled in March 2020 due to Covid-19. However, the claimant was paid the remainder of his 10-month contract through what would have been the last day of the school year. According to the administrative record Wage-A, the claimant returned to work for Johnston High School for the 2020/2021 school year. The claimant received \$30,000 annually from this employer.

The claimant also worked for several supplemental employers which are separately described below:

The claimant worked for United States Specialist Sports Association (USSSA) as a softball umpire. He performed this work on the weekends from May through November 2020. The claimant only received \$1900 due to the suspension of several tournaments that he typically worked in June and July 2020. The administrative record DBRO shows the claimant reported receiving zero dollars in earnings from the week ending June 6, 2020 to the week ending August 15, 2020. The claimant provided the 1099 form he received for this employment in 2019 which shows he received \$5,280 for that reason.

In May 2020, the claimant also worked as a part-time wine and spirit clerk working 11 hours per week. On May 23, 2020, the claimant requested a leave of absence from this employer because he could not wear a mask as required without obstructing his airway. He returned from his leave of absence on October 11, 2020. The claimant quit this employment during holiday season. He did not have a more specific date. The claimant received \$4800 from this employer in 2019.

The claimant also occasionally worked at the Funny Bone which was also disrupted by Covid19. The claimant only received \$600 in income from this employment in 2019.

The following section of the findings of fact outlines the claimant's filing, receipt, and current eligibility for unemployment and Pandemic Emergency Unemployment Compensation (PEUC) benefits.

The claimant filed a claim for state unemployment insurance benefits with an effective date of May 3, 2020. The claimant filed for benefits from the week ending May 9, 2020 to the week ending September 5, 2020. The claimant was disqualified from benefits effective the week ending January 8, 2021, by a representative's decision dated February 16, 2021.

REASONING AND CONCLUSIONS OF LAW:

The issue of timeliness was listed on the hearing notice in error. The claimant filed his appeal three days after the date of the disqualifying decision. 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. The issue to be determined here is whether claimant is a "covered individual" within the meaning of applicable law.

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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—

(l) 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

(II) 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)(I).


As stated above, the claimant must show he is a “covered individual” within the meaning of applicable law.

The first threshold the claimant needs to clear is to show he satisfies Section 2102(a)(3)(i) by showing he is ineligible for regular unemployment, extended benefits and PEUC benefits. The claimant was disqualified from benefits due to his voluntary resignation on January 8, 2020. The claimant can satisfy Section 2102(a)(3)(i) from that point onward.

PL 116-136 Section 2102(a)(3)(A)(ii)(I) establishes that the claimant must provide self-certification that he is otherwise able to work and available for work within the meaning of applicable State law, except that he is unemployed, partially unemployed, or unable or unavailable to work because of one of the enumerated reasons listed in (aa) through (II). The claimant can self-certify under Section 2102(a)(3)(A)(i)(ii)(I)(kk)(iii) stating, “An individual provides services to an educational institution or educational service agency and the individual is unemployed or partially unemployed because of volatility in the work schedule that is directly caused by the Covid19 public health emergency. This includes, but is not limited to, changes in schedules and partial closures.” The claimant falls under this eligibility criteria because the non-educational employment he received in from the week ending June 6, 2020 to August 15, 2020 from USSSA was disrupted due to Covid19. See Department of Labor, Unemployment Insurance Program Letter, No. 16-20 Change 5, Expanded Eligibility Provisions for the Pandemic Unemployment Assistance Program, (February 25, 2021) at pgs. 6-8. Benefits are granted from the week ending June 6, 2020 to the week ending August 15, 2020.

DECISION:

The assessment for PUA benefits decision dated May 12, 2020 that determined claimant was not eligible for federal PUA is reversed. Benefits are granted from the week ending June 6, 2020 to the week ending August 15, 2020.



Sean M. Nelson
Administrative Law Judge

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June 23, 2021
Decision Dated and Mailed

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