

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

KAREN K SEID
Claimant

APPEAL 21A-DUA-01639-S2-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

OC: 03/28/21
Claimant: Appellant (4)

Iowa Code § 96.6(2) – Timeliness of Appeal
PL 116-136, Sec. 2102 – Federal Pandemic Unemployment Assistance

STATEMENT OF THE CASE:

Claimant Karen K. Seid filed an appeal from an Iowa Workforce Development decision that determined claimant was not eligible for federal Pandemic Unemployment Assistance (PUA) benefits. A telephone hearing was held on July 24, 2021. The claimant was properly notified of the hearing and participated personally. The administrative law judge took official notice of the administrative record.

ISSUES:

Is the claimant's appeal is timely?
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:

Claimant is self-employed as a housecleaner. She cleans residential houses and new construction builds. When the pandemic arrived, claimant's business lost all of its clients because they no longer wanted people inside their homes. Claimant continued to advertise through Facebook and fliers. She received her first customer since the pandemic in July 2021.

Claimant filed her initial claim for regular unemployment insurance benefits funded through the State of Iowa with an effective date of March 29, 2020. Claimant is not monetarily eligible to receive regular state unemployment insurance benefits. Claimant filed an application for Pandemic Unemployment Assistance

A decision was issued on April 19, 2020, finding claimant eligible for PUA effective March 29, 2020. Claimant's last PUA payment was received on April 24, 2021. According to the administrative record, on May 21, 2021, IWD determined claimant was not eligible for PUA because her unemployment was not Covid-related. No disqualifying decision was issued. Claimant learned that IWD determined she was not eligible for PUA during a telephone

conversation with a representative. The representative advised claimant to file an appeal. Claimant appealed the determination within one week of the telephone call.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant's appeal is timely.

Iowa Code section 96.6(2) provides:

2. *Initial determination.* A representative designated by the director shall promptly notify all interested parties to the claim of its filing, and the parties have ten days from the date of mailing the notice of the filing of the claim by ordinary mail to the last known address to protest payment of benefits to the claimant. The representative shall promptly examine the claim and any protest, take the initiative to ascertain relevant information concerning the claim, and, on the basis of the facts found by the representative, shall determine whether or not the claim is valid, the week with respect to which benefits shall commence, the weekly benefit amount payable and its maximum duration, and whether any disqualification shall be imposed. The claimant has the burden of proving that the claimant meets the basic eligibility conditions of section 96.4. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to section 96.5, except as provided by this subsection. The claimant has the initial burden to produce evidence showing that the claimant is not disqualified for benefits in cases involving section 96.5, subsection 10, and has the burden of proving that a voluntary quit pursuant to section 96.5, subsection 1, was for good cause attributable to the employer and that the claimant is not disqualified for benefits in cases involving section 96.5, subsection 1, paragraphs "a" through "h". Unless the claimant or other interested party, after notification or within ten calendar days after notification was mailed to the claimant's last known address, files an appeal from the decision, the decision is final and benefits shall be paid or denied in accordance with the decision. If an administrative law judge affirms a decision of the representative, or the appeal board affirms a decision of the administrative law judge allowing benefits, the benefits shall be paid regardless of any appeal which is thereafter taken, but if the decision is finally reversed, no employer's account shall be charged with benefits so paid and this relief from charges shall apply to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

The ten calendar days for appeal begins running on the mailing date. The "decision date" found in the upper right-hand portion of the representative's decision, unless otherwise corrected immediately below that entry, is presumptive evidence of the date of mailing. *Gaskins v. Unempl. Comp. Bd. of Rev.*, 429 A.2d 138 (Pa. Comm. 1981); *Johnson v. Bd. of Adjustment*, 239 N.W.2d 873, 92 A.L.R.3d 304 (Iowa 1976).

No decision has been issued denying claimant PUA. Claimant learned of IWD's denial of PUA via telephone and appealed the determination within one week. Claimant's appeal is considered timely.

The next issue is whether claimant is eligible for federal Pandemic Unemployment Assistance (PUA) benefits. For the reasons set forth below, the administrative law judge concludes she is not eligible.

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. For claims filed after December 27, 2020, the PUA claimant can only be backdated to December 6, 2020 and retroactive benefits may not be awarded prior to that date. See Unemployment Insurance Program Letter No. 16-20, Change 5.

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).

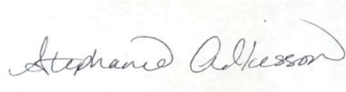
In this case, the claimant is not monetarily eligible for unemployment insurance benefits funded by the State of Iowa. Claimant therefore meets the requirements of PL 116-136 Section 2102(a)(3)(A)(i); however, she must also meet the requirements of PL 116-136 Section 2102(a)(3)(A)(ii) to qualify as a "covered individual" under the CARES Act.

The Secretary of Labor has approved an additional criterion under subparagraph (kk) to include "self-employed individuals (including independent contractors and gig workers) who experienced a significant diminution of their customary or usual services because of the Covid-19 public health emergency, even absent a suspension of services." (Unemployment Insurance Program Letter Number 16-20, Change 4, Attachment 1, page 8)

Claimant is a self-employed individual who has experienced a significant reduction in services as a direct result of Covid-19. Claimant meets the requirements of subparagraph (kk) and, thus, is eligible for PUA benefits effective April 25, 2021.

DECISION:

The appeal is timely. The Iowa Workforce Development determination that claimant is not eligible for Pandemic Unemployment Assistance (PUA) benefits is modified in favor of appellant. Benefits are allowed effective April 25, 2021.



Stephanie Adkisson
Administrative Law Judge
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July 30, 2021
Decision Dated and Mailed

sa/kmj