

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

CASEY R MARCHINO
Claimant

APPEAL 21A-DUA-01512-B2-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 04/04/21
Claimant: Appellant (4)**

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

STATEMENT OF THE CASE:

Claimant filed a timely appeal from the Iowa Workforce Development decision dated May 7, 2021 that determined claimant was not eligible for federal Pandemic Unemployment Assistance (PUA).

A telephone hearing was held on July 26, 2021. The claimant was properly notified of the hearing. The claimant participated personally.

Official notice was taken of the administrative 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 May 7, 2021. The last day claimant worked for Jethro's was February 10, 2021. Claimant was employed at that time by Jethro's as a part-time server. In this position, claimant served food to customers at the south side Jethro's. Claimant was hired to work the day shift at Jethro's such that she could work while her children were in daycare and at kindergarten. On or around November 8, 2020 claimant had to stop working her day shifts at Jethro's as the DMPS shut down in person schooling. As all classes had to be held remotely and claimant had no one to watch her kindergarten child, claimant stopped working day shifts, and picked up night shifts when they could work for her. This led to reduced income. Claimant was unable to work her regular shifts until the beginning of January 2021.

Within days of claimant returning to work, she contracted Covid, and then spread it to her children. For the entire month of January, claimant was either out of work with Covid, or was home with her quarantining children.

Claimant returned to work on or around February 1, but missed work after that date as a result of her baby's bronchial problems which were not related to Covid. Claimant's missed work eventually led to her job loss.

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 she had to stay home with her child who could not attend school in person or her family had Covid. 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).

REASONING AND CONCLUSIONS OF LAW:

For the reasons set forth below, the Iowa Workforce Development decision dated May 7, 2021 that determined claimant was not eligible for federal Pandemic Unemployment Assistance (PUA) is modified in favor of claimant.

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. (These timeframes have been amended to allow for backdating to no earlier than December 1, 2020 for cases filed after December 27, 2020.) 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—

(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

(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 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 of her child being out of school, and claimant and her children contacting Covid. These situations involve paragraphs (aa), (bb), and (dd). This partial unemployment began on November 8, 2020 and continued until February 1, 2021. 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. Claimant was not receiving paid sick leave or other paid leave benefits.

DECISION:

The Iowa Workforce Development decision dated May 7, 2021 that determined claimant was not eligible for federal Pandemic Unemployment Assistance (PUA) is modified in favor of claimant. Claimant is eligible to receive PUA benefits from November 8, 2020 through February 1, 2021.



Blair A. Bennett
Administrative Law Judge

July 30, 2021
Decision Dated and Mailed

bab/kmj