

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**GLADY T KONOU**  
Claimant

**APPEAL 21A-DUA-00904-JC-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE DEVELOPMENT  
DEPARTMENT**

**OC: 04/12/20**  
**Claimant: Appellant (1)**

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

**STATEMENT OF THE CASE:**

The claimant, Gladly T. Konou, filed an appeal from the Iowa Workforce Development decision dated January 23, 2021 that determined claimant was not eligible for federal Pandemic Unemployment Assistance (PUA) benefits.

Claimant waived proper notice and a telephone hearing was conducted on March 31, 2021. The claimant participated personally and through a Marshallese interpreter from CTS Language Link. The administrative law judge took official notice of the administrative records.

**ISSUE:**

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: In March 2020, the United States declared a public health emergency based on the COVID-19 pandemic.

The claimant filed a claim for state unemployment insurance benefits with an effective date of April 12, 2020. The claimant received regular unemployment insurance benefits from April 12, 2020 through June 20, 2020. She also received federal Pandemic Emergency Unemployment Compensation (PEUC) benefits from June 21, 2020 through September 19, 2020.

A reference 01 initial decision then denied claimant regular unemployment insurance benefits based upon her separation from Masterson Personnel. Claimant appealed the decision for a hearing and the denial was upheld. Claimant did not appeal the hearing decision and it is final at this time. See Appeal 20A-UI-12248-JC-T.

The claimant then applied for Pandemic Unemployment Assistance (PUA) benefits. The claimant has been unable to work since establishing her claim for most weeks due to leg pain, which stems from her diabetes. Claimant has worked for two single day assignments at temporary staffing

firms since establishing her claim for benefits but has otherwise declined work or been unable to work due to the leg pain. Claimant intends to see a doctor soon.

### **REASONING AND CONCLUSIONS OF LAW:**

**For the reasons that follow, the administrative law judge concludes the claimant is not eligible for Pandemic Unemployment Assistance (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.

The Continued Assistance for Unemployed Workers Act of 2020 (enacted December 27, 2020) and American Rescue Act of 2021 (enacted March 11, 2021) extended PUA benefits for weeks of unemployment to September 6, 2021.

The issue to be determined here is whether claimant is a “covered individual” 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).

The United States Code authorizes the Secretary of the United States Department of Labor to enter into agreements with states to administer Pandemic Unemployment Assistance (PUA) benefits under the CARES Act. PL 116-136, Sec. 2102(f). The United States Department of Labor has issued operating instructions to states in implementing section 2102 of the CARES Act. Iowa Code § 96.11 mandates that Iowa Workforce Development “shall cooperate with the United States department of labor to the fullest extent consistent with the provisions of this chapter. . .” When implementing section 2102, the operating instructions direct states to first consult section 2102 of the CARES Act and then the operating instructions. When both are silent, states should refer to section 625 of title 20, Code of Federal Regulations. When consulting the regulations, the term “COVID-19 public health emergency” is to be substituted for the term “major disaster” and the term “pandemic is to be substituted for the term “disaster.”

In order to be eligible for PUA benefits, claimant must be otherwise able and available for work according to state law. For an individual to be eligible to receive benefits, she must be able to work, available for work, and actively seeking work as required by the unemployment insurance law. Iowa Code § 96.4(3). The burden is on the claimant to establish that she is able and available for work within the meaning of the statute. Iowa Code § 96.6(2); Iowa Admin. Code r. 871-24.22.

Iowa Admin. Code r. 871-24.23(1) provides:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(1) An individual who is ill and presently not able to perform work due to illness.

Claimant in this case stated she has been unable to work since filing her claim because of leg pains. Claimant's unemployment is not caused by COVID-19, but due to personal illness. The administrative law judge has reviewed the facts and applicable laws carefully, and although the administrative law judge is very sympathetic to claimant's situation, she does not meet the definition of an unemployed worker who is entitled to PUA benefits under the law, as outlined above. Claimant's unemployment was not caused by COVID-19, although it may be the result of a longer chain of events precipitated or exacerbated by COVID-19. The request for Pandemic Unemployment Assistance is denied.

**DECISION:**

The Iowa Workforce Development decision dated January 23, 2021 that determined claimant was not eligible for federal Pandemic Unemployment Assistance (PUA) is affirmed. The claimant's request for PUA benefits is denied.



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Jennifer L. Beckman  
Administrative Law Judge  
Unemployment Insurance Appeals Bureau  
Iowa Workforce Development  
1000 East Grand Avenue  
Des Moines, Iowa 50319-0209  
Fax 515-478-3528

April 5, 2021  
Decision Dated and Mailed

jlb/lj

**NOTE TO CLAIMANT:**

This decision determines you are not eligible for PUA benefits. If you disagree with this decision you may file an appeal to the Employment Appeal Board by following the instructions on the first page of this decision.

You may find information about food, housing, and other resources at <https://covidrecoveryiowa.org/> or at <https://dhs.iowa.gov/node/3250>

Iowa Finance Authority also has additional resources at <https://www.iowafinance.com/about/covid-19-ifa-recovery-assistance/>