

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

KAMRYN CRAWFORD
Claimant

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

APPEAL 20A-UI-00243-NM-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/15/20
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 August 27, 2020, the claimant filed an appeal from the Iowa Workforce Development decision dated August 7, 2020 that determined claimant was not eligible for federal Pandemic Unemployment Assistance (PUA). A telephone hearing was held on October 5, 2020. The claimant was properly notified of the hearing. The claimant participated personally.

ISSUES:

Is the claimant's appeal 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 filed the application for PUA on August 7, 2020. Claimant became unemployed in March 2020, when the United States declared a public health emergency due to the COVID 19 pandemic. Claimant was working several part-time jobs at the time. Claimant had just started training as a server at the Boulder House Tap, but it was shut down. Claimant provided nanny services for a family five hours per week, but those services were no longer needed, as both parents began teleworking. Claimant also worked for Iowa State University refereeing intermural sports, but all intermural sports were cancelled for the remainder of the spring semester.

Claimant did provide self-certification that she was otherwise able to work and available for work but was unemployed, partially unemployed, or unable or unavailable to work due to reasons related to the pandemic. Claimant is not eligible for regular compensation or extended benefits under state or federal law or Pandemic Emergency Unemployment Compensation (PEUC).

A disqualifying PUA decision was mailed to the claimant's last known address of record on or around August 10, 2020. The decision contained a warning that an appeal must be postmarked or received by the Appeals Bureau by August 20, 2020. However, the claimant did not receive

the decision until August 24, 2020. She initially contacted the unemployment insurance services in Minnesota, where she lives when she is not attending school, but was advised she needed to file an appeal in Iowa. Claimant filed her appeal on August 27, 2020.

REASONING AND CONCLUSIONS OF LAW:

The first issue to be considered in this appeal is whether the appellant's appeal is timely. The administrative law judge determines it is.

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, subsections 10 and 11, 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 appellant did not have an opportunity to appeal the fact-finder's decision within the appeal deadline because the decision was not received until August 24, 2020, after the appeal deadline. Without notice of a disqualification, no meaningful opportunity for appeal exists. See *Smith v. Iowa Emp't Sec. Comm'n*, 212 N.W.2d 471, 472 (Iowa 1973). The claimant filed an appeal within a reasonable period of time after discovering the disqualification and learning of her appeal rights. Therefore, the appeal shall be accepted as timely.

The next issue to be decided is whether claimant qualified for federal Pandemic Unemployment Assistance (PUA). For the reasons set forth below, the Iowa Workforce Development decision dated August 7, 2020 that determined claimant was not eligible for PUA is reversed.

The CARES Act was established to provide PUA benefits to qualified individuals who were not eligible for regular compensation or extended benefits under State or Federal law or pandemic emergency unemployment compensation. PL 116-136 Section 2102(a), (b), (c), (d), and (h) provide as follows:

SEC. 2102. PANDEMIC UNEMPLOYMENT ASSISTANCE.

(a) DEFINITIONS. — In this section:

(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

(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 (I); 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).

(b) ASSISTANCE FOR UNEMPLOYMENT AS A RESULT OF COVID– 19. —

Subject to subsection (c), the Secretary shall provide to any covered individual unemployment benefit assistance while such individual is unemployed, partially unemployed, or unable to work for the weeks of such unemployment with respect to which the individual is not entitled to any other unemployment compensation (as that term is defined in section 85(b) of title 26, United States Code) or waiting period credit.

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 her place(s) of employment closed as a direct result of the COVID-19 public health emergency. 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.

DECISION:

The Iowa Workforce Development decision dated August 7, 2020 that determined claimant was not eligible for federal Pandemic Unemployment Assistance (PUA) is reversed. The appeal is timely. Any benefits claimed but withheld on this basis shall be paid.



Nicole Merrill
Administrative Law Judge

October 21, 2020
Decision Dated and Mailed

nm/mh