

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

KHALID F HASSABALLA
Claimant

APPEAL 21A-DUA-01644-DZ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 05/30/21
Claimant: Appellant (4)**

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

STATEMENT OF THE CASE:

Khalid F Hassaballa, the claimant/ appellant, filed an appeal from the Iowa Workforce Development decision dated June 12, 2021 that determined he was not eligible for Pandemic Unemployment Assistance (PUA) benefits. Mr. Hassaballa was properly notified of the hearing. A telephone hearing was held on July 23, 2021. Mr. Hassaballa participated and testified. Official notice was taken of the administrative record.

ISSUE:

Is Mr. Hassaballa eligible for Pandemic Unemployment Assistance benefits?

FINDINGS OF FACT:

Having reviewed the evidence in the record, the administrative law judge finds: Mr. Hassaballa was last employed at REM Iowa Community Services Inc. He worked as a full-time personal aide. His employment ended on September 1, 2020. He is the parent of three children, ages 11, 7 and 5.

In March 2020, the United States declared a public health emergency because of the COVID-19 pandemic. Mr. Hassaballa's wife has underlying health conditions that make her high risk for complications from COVID-19. Mr. Hassaballa was concerned about being exposed to COVID-19 at work and exposing his wife and/or his children to COVID-19.

In April 2020, one of the client's Mr. Hassaballa provided care for, tested positive for COVID-19. The employer sent Mr. Hassaballa home for two weeks to self-quarantine. Mr. Hassaballa returned to work after the two weeks. Sometime in August 2020, Mr. Hassaballa asked to take a leave of absence due to his ongoing concerns about COVID-19 and because he was experiencing COVID-19 symptoms. Mr. Hassaballa did not seek a diagnosis or treatment from a medical professional at that time. The employer denied his request so Mr. Hassaballa resigned on September 1, 2020.

By September 2020, Mr. Hassaballa's children's school were offering online learning or hybrid learning (attend school in-person some days and online other days). This continued through the end of the school year. Mr. Hassaballa's children attended summer school in-person in the summer of 2021. Mr. Hassaballa requires child care to attend work.

On, or about, April 22, 2021, Mr. Hassaballa, his wife and his children all tested positive for COVID-19. Mr. Hassaballa's doctor advised him, his wife and his children to self-quarantine, which they did. Mr. Hassaballa continued to experience COVID-19 symptoms through the end of June 2021.

Mr. Hassaballa has not scheduled to begin new employment, which was cancelled due to Covid-19. Mr. Hassaballa is eligible for REGULAR unemployment insurance benefits from April 12, 2020 through August 31, 2021 per the administrative law judge's decision in Appeal 20A-UI-04690-JC-T. Mr. Hassaballa is not eligible for REGULAR unemployment insurance benefits as of September 1, 2020 per the administrative law judge's decision in Appeal 21A-UI-12171-DZ-T.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes:

The Coronavirus Aid, Relief, and Economic Security (CARES) 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.

Governor Reynolds ended Iowa's participation in federal pandemic-related unemployment benefit programs, including the PUA program, effective June 12, 2021.

The issue to be determined here is whether claimant is a "covered individual" who is eligible to receive benefits 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

(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).

Attachment I to the United States Department of Labor's Unemployment Insurance Program Letter No. 16-20, Change 1 provides:

An individual does not need to demonstrate good cause to backdate a PUA claim. Rather, the claim **must** be backdated to the first week during the Pandemic Assistance Period that the individual was unemployed, partially unemployed, or unable or unavailable to work because of a COVID-19 related reason listed in section 2102(a)(3)(A)(ii)(I) of the CARES Act.

[Emphasis in original]

Attachment I to the United States Department of Labor's Unemployment Insurance Program Letter No. 16-20, Change 4 provides:

15. Backdating Requirements and Limitations (Section 201(f) of the Continued Assistance Act) (**new**). As discussed in Question 4 of Attachment I to UIPL No. 16-20, Change 1, individuals filing for PUA must have their claim backdated to the first week during the Pandemic Assistance Period (PAP) in which the individual was unemployed, partially unemployed, or unable or unavailable to work because of a COVID-19 related reason listed in Section 2102(a)(3)(A)(ii)(I) of the CARES Act. Section 201(f) of the Continued Assistance Act provides a limitation on backdating for claims filed after December 27, 2020 (the enactment date of the Continued Assistance Act).

- *PUA initial claims filed on or before December 27, 2020 (the enactment date of the Continued Assistance Act).* Initial PUA claims filed on or before this date may be backdated no earlier than the week that begins on or after February 2, 2020, the first week of the PAP.
- *PUA initial claims filed after December 27, 2020 (the enactment date of the Continued Assistance Act).* Initial PUA claims filed after this date may be backdated no earlier than December 1, 2020 (a claim effective date of December 6, 2020 for states with a Saturday week ending date and a claim effective date of December 7, 2020, for states with a Sunday week ending date).

If an individual filed a regular UC claim on or before December 27, 2020, and the state later determines that the individual is not eligible for regular UC, the state should use the date the claimant filed the regular UC claim as the date of filing for the PUA claim, so long as the individual met the requirements for PUA as of that date. For example, if the individual filed a regular UC application on October 4, 2020 and the state determined the

claimant was not eligible for regular UC on January 15, 2021, the PUA application will be deemed to have been filed on October 4, 2020 and the PUA claim will be backdated to that date.

[Emphasis in original]

The United States Department of Labor's Unemployment Insurance Program Letter No. 16-20, Change 3, provides, in pertinent part,

When the school system is providing a combination of online and in-person instruction, it is not open for certain student(s) to be physically present at the school on those certain days when receiving online instructions, and therefore is considered closed under section 2102(a)(3)(A)(ii)(I)(dd) of the CARES Act.

Mr. Hassaballa's children's schools were considered closed on September 1, 2020 and remained closed for the rest of the 2020-2021 school year. Mr. Hassaballa requires childcare in order to attend work. Even though Mr. Hassaballa's claim is dated May 30, 2021, his claim is backdated to September 1, 2020, the first week during the Pandemic Assistance Period that he was unemployed, partially unemployed, or unable or unavailable to work because of a COVID-19 related reason. Mr. Hassaballa meets the eligibility requirements of subparagraph (dd) and is eligible for PUA benefits from September 1, 2020 through the end of the 2020-2021 school year.

Mr. Hassaballa tested positive for COVID-19 on, or about, April 22, 2021. He self-quarantined, on advice of his doctor, and continued to experience COVID-19 symptoms through the end of June 2021. Mr. Hassaballa meets the eligibility requirements of subparagraph (aa) from April 22, 2021 through June 30, 2021. Since Governor Reynolds ended Iowa's participation in the PUA program effective June 12, 2021, Mr. Hassaballa's eligibility for PUA benefits ends on June 12, 2021, instead of June 30, 2021.

Mr. Hassaballa must file weekly continued claims in order to receive benefits.

DECISION:

The Iowa Workforce Development decision dated June 12, 2021 that determined Mr. Hassaballa was not eligible for Pandemic Unemployment Assistance (PUA) benefits is modified in favor of the appellant, Mr. Hassaballa. Mr. Hassaballa is eligible for PUA benefits from September 1, 2020 through June 12, 2021, the date Governor Reynolds ended Iowa's participate in the PUA program, pursuant to subparagraphs (aa) and (dd).



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

July 30, 2021
Decision Dated and Mailed

dz/scn