

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

**LORRIE L STAUDT**  
Claimant

**APPEAL NO. 08A-DUA-00044-SWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**FEDERAL UNIT  
ADMINISTRATIVE OFFICE**

**OC: 06/08/08 R: 02  
Claimant: Appellant (1)**

20 CFR 625.4 - Unemployment Caused by a Major Disaster

**STATEMENT OF THE CASE:**

The claimant appealed a Disaster Unemployment Assistance (DUA) decision dated September 15, 2008, that concluded the claimant was ineligible to receive DUA because the claimant was not unemployed as a result of a major disaster because she was not totally or partially unemployed and was monetarily eligible for regular unemployment insurance benefits. A telephone hearing was held on October 22, 2008. The claimant participated in the hearing. Exhibit A-1 and A-2 was admitted into evidence at the hearing. Based on the evidence, the arguments of the claimant, and the law, the following findings of fact, reasoning and conclusions of law, and decision are entered.

**ISSUE:**

Is the claimant qualified for DUA?

**FINDINGS OF FACT:**

The claimant filed an application for DUA on July 16, 2008, with an effective date of June 8, 2008. The claimant and her husband have a 2,500-acre farm in near Dougherty, Iowa, which was declared a major disaster area. They raise corn and soybeans on the farm. The claimant and her husband planted 2,000 acres of corn and 500 acres of soybeans in 2008. Starting at the end of May 2008, disaster conditions in the form of heavy rains caused flooding on the claimant's farm and damage to the crops. The disaster conditions caused approximately 40 percent of the claimant's crops to be lost completely or severely damaged.

As of June 8, 2008, the claimant was unable to perform her customary hours assisting her husband with spraying and cultivating the crops, due to the weather and soil conditions. She normally would be working about 25-30 hours per week assisting with field work but was not able to perform this work until early July when the conditions improved enough that she was able to get back in the fields again.

The claimant also works 20 hours per week as a lab technician and receives wages of \$420.00 per week from this employment. Her work as a lab technician is part-time and earned the claimant \$15,751.00 in wages for 2007. She and her husband had a net farm profit of

\$68,503.00 based on gross farm income of \$1,352,587.00 and gross farm expenses of \$1,284,084.00. The claimant considers her work on the farm to be her primary source of income and livelihood and the lab technician job as a secondary source to obtain health insurance coverage.

The claimant's weekly benefit amount of DUA based on half of the farm income was \$347.00 per week. The claimant has continued to work her regular 20 hours per week as a lab technician since she filed for DUA benefits. The claimant has sufficient wages from her job as a lab technician to qualify for regular unemployment insurance benefits. She has been found ineligible for regular unemployment insurance benefits because she is still working her regular hours in employment.

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

"The Robert T. Stafford Disaster Relief and Emergency Assistance Act" includes a program for the payment of unemployment assistance benefits to individuals unemployed as a result of a major disaster. See 42 USC §§ 5177, 5189a; 20 CFR Part 625. Under the pertinent part of the regulations, an individual is eligible to receive a payment of DUA for a week if the week is a "week of unemployment" that is caused by a major disaster. 20 CFR § 625.4(d) and (f).

For a self-employed individual, a "week of unemployment" is a week during which an individual is "totally, part-totally, or partially unemployed." An individual is "totally unemployed" in a week during which he performs no services in self-employment. "Partially unemployed" is defined as "a week during which the individual performs less than the customary full-time services in self-employment, as a direct result of the major disaster, and earns wages not exceeding the maximum earnings allowance prescribed by State law." 20 CFR § 625.2(w)(2).

The DUA rules provide that a person who is qualified for regular unemployment compensation is not eligible for DUA benefits. 20 CFR § 625.4(i). In this case, the claimant has sufficient wages from the lab technician job to qualify for regular unemployment compensation. In addition, the rules state that an individual shall be considered ineligible for regular compensation (and thus potentially eligible for DUA) if the individual is under a disqualification for a cause that occurred prior to the individual's unemployment due to the disaster or is ineligible for compensation as a direct result of the major disaster. 20 CFR § 625.4(i). The claimant cannot draw unemployment insurance benefits because she is continuing to work her regular hours and receives her regular wages as a lab technician. This unemployment insurance denial is not a disqualification for a cause that occurred before the disaster or was the result of the disaster. In addition, the claimant would not be able to receive DUA benefits because her wages from her job exceed her DUA weekly benefit amount.

The DUA program is an unemployment program and is not a program that directly compensates individuals for economic losses. The claimant is not eligible to receive DUA benefits.

**DECISION:**

The DUA decision dated September 15, 2008, is affirmed. The claimant is not eligible to receive DUA benefits.

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Steven A. Wise  
Administrative Law Judge

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Decision Dated and Mailed

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