

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**MAUREEN SKELLENGER**  
Claimant

**APPEAL 21A-DUA-00439-SN-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE DEVELOPMENT  
DEPARTMENT**

**OC: 02/23/20**  
**Claimant: Appellant (2)**

PL 116-136, Sec. 2012 – Federal Pandemic Unemployment Assistance

**STATEMENT OF THE CASE:**

On December 31, 2020, the claimant filed a timely appeal from the assessment for Pandemic Unemployment Assistance (PUA) decision dated December 22, 2020 that determined claimant was not eligible for federal PUA benefits. A telephone hearing was held on March 4, 2021. The claimant participated personally. The administrative law judge took official notice of the administrative records.

**ISSUE:**

Is the claimant eligible for PUA?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds:

On December 22, 2020, the claimant filed her claim for PUA benefits. On her claim form, the claimant provided the following reason for being unemployed, “other,” instead of the Covid19 reasons listed for self-certification. As an explanation, the claimant stated, “I was let go from [sic] position due to them not having enough hours available due to Covid-19.”

The claimant started working as a cafeteria worker for Clear Lake Schools on August 24, 2020. On that day, the claimant was hired with the expectation she would work into the following calendar year.

In mid-September 2020, Food Service Manager Misty Binstock the claimant she would be laid off until further notice because Clear Lake Schools did not have enough students and staff due to Covid19 precautions and transmission to justify her continued employment. The claimant returned to work in mid-October 2020.

In mid-November 2020, Ms. Binstock informed the claimant she would be laid off until further notice due to low counts of staff and students at Clear Lake Schools.

Clear Lake Schools’ winter break is the last week in December and the first week in January 2020.

The following section of the findings of fact outlines the claimant's filing, receipt, and current eligibility for unemployment and Pandemic Emergency Unemployment Compensation (PEUC) benefits.

The claimant filed a claim for state unemployment insurance benefits with an effective date of February 23, 2020. She exhausted her unemployment insurance benefits on August 1, 2020.

The claimant started receiving PEUC benefits beginning on August 8, 2020. She exhausted her PEUC benefits on November 14, 2020.

On December 27, 2020, the Continued Assistance Act extended PEUC benefits.

The claimant began receiving PEUC benefits again on January 2, 2021. As of the date of the hearing, the claimant is still receiving PEUC benefits.

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

For the reasons that follow, the administrative law judge concludes the claimant is eligible for PUA benefits from November 21, 2020 to January 2, 2021.

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.

That period was subsequently extended through the week ending March 13, 2021 and, in some cases, through the week ending April 10, 2021. See Consolidated Appropriations Act of 2021. The issue to be determined here is whether claimant is a "covered individual" within the meaning of applicable law.

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Section 2102(a)(3) defines individuals who are eligible for PUA benefits.

(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)(I).

As stated above, the claimant must show he is a “covered individual” within the meaning of applicable law.

The first threshold the claimant needs to clear is to show he satisfies Section 2102(a)(3)(i) by showing he is ineligible for regular unemployment, extended benefits and PEUC benefits. By November 14, 2020, the claimant had exhausted her regular benefits and PEUC benefits.

Due to the subsequent passage of the Continued Assistance Act, the claimant became eligible for PEUC benefits on December 27, 2020. He is eligible for PEUC after this period until he exhausts these additional benefits and is ineligible for PUA under Section 2102(a)(3)(i) until these benefits are exhausted or he otherwise disqualified to receive them. As a result, the claimant can only show she satisfies the requirement of Section 2102(a)(3)(i) from November 21, 2020 to January 2, 2021.

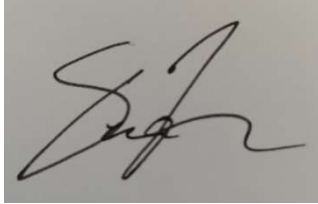
The second issue regards whether the claimant satisfies the self-certification requirement. PL 116-136 Section 2102(a)(3)(A)(ii)(I) establishes that the claimant must provide self-certification that she is otherwise able to work and available for work within the meaning of applicable State law, except that she is unemployed, partially unemployed, or unable or unavailable to work **because of one of the enumerated reasons listed in (aa) through (II)**. It is required that individuals complete the self-certification form that identifies the applicable Covid-19 related reason under section 2102(a)(3)(A)(ii)(I) of the Cares Act.

The administrative law judge finds the claimant self-certified as required. It may be argued the claimant does not satisfy the self-certification requirement because she selected, “other” as a reason. The claimant selected “other,” as a reason, but further elaborated on her reason to be directly caused by Covid19 under Section 2102(a)(3)(ii)(I)(II). In particular, the claimant wrote, “I was let go from [sic] position due to them not having enough hours available due to Covid-19.” Unemployment law cannot shrink to such formalism because it would fundamentally make PUA inaccessible to claimants. Such formalism arguably would constrain the claimant’s articulation of multiple causes of their unemployment by foreclosing their ability to reference two or more enumerated reasons. The administrative law judge believes self-certification under PUA should be broadly construed to only require a general notice of a Covid19 reason that can be discerned to be one of the enumerated reasons. This is especially applicable because the claimant’s self-certification falls under new eligibility criteria provided in the Department of Labor Unemployment Insurance Program Letter No 16-20 Change 5 under Section 2102(a)(3)(A)(ii)(I)(kk)(iii) which states, “An individual is an employee and their hours have been reduced or the individual was laid off as a direct result of the Covid19 public health emergency.”

The claimant testified she was subject to two layoff periods. One layoff occurred from mid-September to mid-October and another layoff began on November 12, 2020 and lasting an indefinite period of time. As outlined above, the first layoff is not covered because the claimant was still receiving other unemployment benefits throughout its duration. However, the second layoff satisfies all eligibility criteria at least from November 21, 2020 to January 2, 2021, when she began receiving PEUC benefits again.

**DECISION:**

The assessment for PUA benefits decision dated December 22, 2020 that determined claimant was not eligible for federal PUA is reversed. The claimant is eligible under Section 2102(a)(3)(A)(ii)(I)(kk)(iii) from November 21, 2020 to January 2, 2021. Benefits are granted.

A handwritten signature in black ink, appearing to read 'Sean M. Nelson', is written over a light gray rectangular background.

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Sean M. Nelson  
Administrative Law Judge  
Unemployment Insurance Appeals Bureau  
1000 East Grand Avenue  
Des Moines, Iowa 50319-0209  
Fax (515) 725-9067

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March 10, 2021  
Decision Dated and Mailed

smn/kmj