

**IOWA DEPARTMENT OF INSPECTIONS AND APPEALS  
ADMINISTRATIVE HEARINGS DIVISION, UI APPEALS BUREAU**

**JENNIFER L HAVEMANN**  
Claimant

**APPEAL 23A-DUA-00003-DZ-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 04/26/20**  
**Claimant: Appellant (1)**

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

**STATEMENT OF THE CASE:**

Jennifer L. Havemann, the claimant/appellant,<sup>1</sup> filed an appeal from the Iowa Workforce Development (IWD) February 21, 2023 (reference 24) unemployment insurance (UI) decision. The decision denied Ms. Havemann Pandemic Unemployment Assistance (PUA) benefits because IWD concluded that Ms. Havemann's employment is not covered under the eligibility requirements of the COVID-19 public health emergency. The Iowa Department of Inspections and Appeals UI Appeals Bureau mailed a notice of hearing to Ms. Havemann. The undersigned administrative law judge held a telephone hearing on March 22, 2023. Ms. Havemann participated personally. The undersigned took official notice of the administrative record.

**ISSUES:**

Is Ms. Havemann eligible for PUA benefits?

**FINDINGS OF FACT:**

Having reviewed the evidence in the record, the administrative law judge finds: Ms. Havemann began working for the employer in 2009. She works as a full-time physical education teacher. The employer pays her a salary of about \$47,000.00 per year per a 12-month teaching contract.

Ms. Havemann also teaches enrichment classes for one hour after school each school day, during the Thanksgiving and Winter breaks, and summer camp during the summer break. The employer offers school staff the option to teach the classes and/or camp and Ms. Havemann voluntarily participates. Neither the enrichment classes nor the summer camp are part of Ms. Havemann's teaching contract. The employer pays Ms. Havemann 80 percent of the participant fees for each class and/or camp. The employer does not guarantee Ms. Havemann hours or a certain amount of pay for the enrichment classes or summer camp.

In March 2020, the United States declared a public health emergency because of the COVID-19 pandemic. In mid-March 2020, the employer closed for a few days and then began offering remote instruction. The employer offered remote instruction from mid-March 2020 through

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<sup>1</sup> Claimant is the person who filed the UI claim with IWD. Appellant is the person or employer who filed the appeal.

May 29, 2020, the end of the 2019-2020 school year. The employer also stopped offering enrichment classes in mid-March 2020 due to the COVID-19 pandemic but continued to pay Ms. Havemann her usual pay per her teaching contract through June 30, 2020.

Ms. Havemann signed a 12-month contract to work for the employer for the 2020-2021 school year. The employer reopened for in-person classes in August 2020 and Ms. Havemann returned to work in-person. The employer paid Ms. Havemann her usual salary for the 12 months. The employer was still not offering enrichment classes until when Ms. Havemann signed the new contract. The employer began offering enrichment classes in about April 2021.

Ms. Havemann is the parent of one child who is too young to attend school. On July 10, 2020, Ms. Havemann and her child tested positive for COVID-19. Ms. Havemann's doctor advised her to self-quarantine for 14 days. Ms. Havemann and her child did so. The employer paid Ms. Havemann her usual pay while she self-quarantined. On September 15, 2020, Ms. Havemann began self-quarantining for 10 days because a student in her class tested positive for COVID-19. The employer paid Ms. Havemann her usual pay while she self-quarantined. At some other time, Ms. Havemann could not recall the specific month or day, Ms. Havemann tested positive for COVID-19 again. Ms. Havemann did not recall if her doctor advised her to self-quarantine, but she did so anyway. The employer paid Ms. Havemann her usual pay while she self-quarantined.

Ms. Havemann requires childcare to attend work. When the employer closed, Ms. Havemann cared for her child while teleworking. When the employer reopened for in-person classes, Ms. Havemann brought her child to work with her.

Ms. Havemann was not partially unemployed. Ms. Havemann is not eligible for REGULAR (state) UI benefits. Ms. Havemann has not scheduled to begin new employment that was cancelled due to the COVID-19 pandemic.

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

For the reasons that follow, the undersigned 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 and American Rescue Act of 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 in this case is whether Ms. Havemann is a "covered individual" who is eligible to receive PUA 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

(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).

In this case, Ms. Havemann tested positive for COVID-19 twice, her child tested positive once and she self-quarantined three times, but the employer paid her during all of these self-quarantine periods. Also, Ms. Havemann's childcare need, while very real, did not stop her from working. Ms. Havemann does not meet any of the of the PUA eligibility requirements of subparagraphs (aa) – (kk). PUA benefits are denied.

**DECISION:**

The February 21, 2023 (reference 24) UI decision denying Ms. Havemann PUA benefits is AFFIRMED. PUA benefits are denied.



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Daniel Zeno  
Administrative Law Judge

March 29, 2023  
Decision Dated and Mailed

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**APPEAL RIGHTS.** If you disagree with the decision, you or any interested party may:

**1. Appeal to the Employment Appeal Board** within fifteen (15) days of the date under the judge's signature by submitting a written appeal via mail, fax, or online to:

**Employment Appeal Board  
4<sup>th</sup> Floor – Lucas Building  
Des Moines, Iowa 50319  
Fax: (515)281-7191  
Online: [eab.iowa.gov](http://eab.iowa.gov)**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

AN APPEAL TO THE BOARD SHALL STATE CLEARLY:

- 1) The name, address, and social security number of the claimant.
- 2) A reference to the decision from which the appeal is taken.
- 3) That an appeal from such decision is being made and such appeal is signed.
- 4) The grounds upon which such appeal is based.

An Employment Appeal Board decision is final agency action. If a party disagrees with the Employment Appeal Board decision, they may then file a petition for judicial review in district court.

**2.** If no one files an appeal of the judge's decision with the Employment Appeal Board within fifteen (15) days, the decision becomes final agency action, and you have the option to **file a petition for judicial review in District Court** within thirty (30) days after the decision becomes final. Additional information on how to file a petition can be found at Iowa Code §17A.19, which is online at <https://www.legis.iowa.gov/docs/code/17A.19.pdf> or by contacting the District Court Clerk of Court <https://www.iowacourts.gov/iowa-courts/court-directory/>.

**Note to Parties:** YOU MAY REPRESENT yourself in the appeal or obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds.

**Note to Claimant:** It is important that you file your weekly claim as directed, while this appeal is pending, to protect your continuing right to benefits.

**SERVICE INFORMATION:**

A true and correct copy of this decision was mailed to each of the parties listed.

**DERECHOS DE APELACIÓN.** Si no está de acuerdo con la decisión, usted o cualquier parte interesada puede:

**1. Apelar a la Junta de Apelaciones de Empleo** dentro de los quince (15) días de la fecha bajo la firma del juez presentando una apelación por escrito por correo, fax o en línea a:

**Employment Appeal Board  
4th Floor – Lucas Building  
Des Moines, Iowa 50319  
Fax: (515)281-7191  
En línea: eab.iowa.gov**

El período de apelación se extenderá hasta el siguiente día hábil si el último día para apelar cae en fin de semana o día feriado legal.

UNA APELACIÓN A LA JUNTA DEBE ESTABLECER CLARAMENTE:

- 1) El nombre, dirección y número de seguro social del reclamante.
- 2) Una referencia a la decisión de la que se toma la apelación.
- 3) Que se interponga recurso de apelación contra tal decisión y se firme dicho recurso.
- 4) Los fundamentos en que se funda dicho recurso.

Una decisión de la Junta de Apelaciones de Empleo es una acción final de la agencia. Si una de las partes no está de acuerdo con la decisión de la Junta de Apelación de Empleo, puede presentar una petición de revisión judicial en el tribunal de distrito.

**2.** Si nadie presenta una apelación de la decisión del juez ante la Junta de Apelaciones Laborales dentro de los quince (15) días, la decisión se convierte en acción final de la agencia y usted tiene la opción de **presentar una petición de revisión judicial en el Tribunal de Distrito** dentro de los treinta (30) días después de que la decisión adquiriera firmeza. Puede encontrar información adicional sobre cómo presentar una petición en el Código de Iowa §17A.19, que se encuentra en línea en <https://www.legis.iowa.gov/docs/code/17A.19.pdf> o comunicándose con el Tribunal de Distrito Secretario del tribunal <https://www.iowacourts.gov/iowa-courts/court-directory/>.

**Nota para las partes:** USTED PUEDE REPRESENTARSE en la apelación u obtener un abogado u otra parte interesada para que lo haga, siempre que no haya gastos para Workforce Development. Si desea ser representado por un abogado, puede obtener los servicios de un abogado privado o uno cuyos servicios se paguen con fondos públicos.

**Nota para el reclamante:** es importante que presente su reclamo semanal según las instrucciones, mientras esta apelación está pendiente, para proteger su derecho continuo a los beneficios.

**SERVICIO DE INFORMACIÓN:**

Se envió por correo una copia fiel y correcta de esta decisión a cada una de las partes enumeradas.