

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

SOAN BIGIO
Claimant

APPEAL 20A-DUA-00561-DB-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 06/14/20
Claimant: Appellant (2)

PL 116-136 Section 2101 – Pandemic Unemployment Assistance
20 CFR § 625 – Disaster Unemployment Assistance
Iowa Code § 96.4(4) – Determination of Benefits

STATEMENT OF THE CASE:

On October 7, 2020, the claimant filed an appeal from the September 26, 2020 Assessment for Pandemic Unemployment Assistance (“PUA”) benefits decision that found she was not eligible for PUA benefits. Claimant waived due notice and a telephone hearing was held on November 18, 2020. Claimant participated personally. Language Link provided language interpretation services to the claimant. The administrative law judge took official notice of the claimant’s unemployment insurance benefits records.

ISSUE:

Is the claimant eligible for PUA benefits?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant filed her initial claim for regular unemployment insurance benefits funded through the State of Iowa with an effective date of June 14, 2020. An unemployment insurance decision was issued on September 10, 2020 (reference 02) that found she was not eligible for regular unemployment insurance benefits funded by the State of Iowa due to a voluntary quitting of work at GRE Hotel Management Company LLC. Claimant filed her application for PUA benefits.

Claimant last worked for Shearers Foods Burlington from December of 2019 through January of 2020 as a full-time packager. She did not earn ten times her weekly benefit amount after her disqualifying separation from employment with GRE Hotel Management Company LLC in order to requalify for State of Iowa benefits.

The claimant has three minor children for which she provides primary caregiving responsibility. On or about March 15, 2020 her children’s schools closed due to the COVID 19 pandemic. Their schools were closed for the remainder of the school year. Claimant also has an underlying health condition that makes her more susceptible to serious complications should

she contract COVID 19. Claimant was instructed by her doctor not to work with the public due to the COVID 19 pandemic and her susceptibility to infection. Claimant's son also has a health condition that makes him more susceptible to serious complications should he contract COVID 19 and his doctor informed the claimant that he needed to go to school online, instead of in person. The claimant was able to and available for work if she would not have been required by her doctor to quarantine due to the COVID 19 public health emergency.

REASONING AND CONCLUSIONS OF LAW:

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

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. However, the claimant must be a "covered individual" under the Act. PL 116-136 Section 2102(a), (b), (c), 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
(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).

(emphasis added).

(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.

(c) APPLICABILITY. —

(1) IN GENERAL. — Except as provided in paragraph (2), the assistance authorized under subsection (b) shall be available to a covered individual — (A) for weeks of unemployment, partial unemployment, or inability to work caused by COVID-19— (i) beginning on or after January 27, 2020; and (ii) ending on or before December 31, 2020; and (B) subject to subparagraph (A)(ii), as long as the covered individual's unemployment, partial unemployment, or inability to work caused by COVID-19 continues.

(2) LIMITATION ON DURATION OF ASSISTANCE.—The total number of weeks for which a covered individual may receive assistance under this section shall not exceed 39 weeks and such total shall include any week for which the covered individual received regular compensation or extended benefits under any Federal or State law, except that if after the date of enactment of this Act, the duration of extended benefits is extended, the 39-week period described in this paragraph shall be extended by the number of weeks that is equal to the number of weeks by which the extended benefits were extended.

(h) RELATIONSHIP BETWEEN PANDEMIC UNEMPLOYMENT ASSISTANCE AND DISASTER UNEMPLOYMENT ASSISTANCE. —

Except as otherwise provided in this section or to the extent there is a conflict between this section and section 625 of title 20, Code of Federal Regulations, such section 625 shall apply to this section as if— (1) the term “COVID–19 public health emergency” were substituted for the term “major disaster” each place it appears in such section 625; and (2) the term “pandemic” were substituted for the term “disaster” each place it appears in such section 625.

Disaster Unemployment Assistance was established for the payment of unemployment assistance to claimants whose unemployment is caused by a major disaster. 20 CFR § 625.1.

20 CFR § 625.4 provides in pertinent part:

Disaster Unemployment Assistance.

Eligibility requirements for Disaster Unemployment Assistance.

An individual shall be eligible to receive a payment of DUA with respect to a week of unemployment, in accordance with the provisions of the Act and this part if:

(g) The individual is able to work and available for work within the meaning of the applicable State law; *Provided*, that an individual shall be deemed to meet this requirement if any injury caused by the major disaster is the reason for inability to work or engage in self-employment; or, in the case of an unemployed self-employed individual, the individual performs service or activities which are solely for the purpose of enabling the individual to resume self-employment.

An unemployed worker is defined as an individual who was employed in or was to commence employment in the major disaster area at the time the major disaster began, and whose principal source of income and livelihood is dependent upon the individual’s employment for wages, and whose unemployment is caused by a major disaster as provided in § 625.5(a). 20 CFR § 625.2(s). The question in this case is whether the unemployment is a direct result of the COVID 19 public health emergency.

With regards to an unemployed worker, 20 CFR § 625.5(a) provides that the unemployment of an unemployed worker is caused by a major disaster if –

- (1) The individual has a “week of unemployment” as defined in § 625.2(w)(1) following the “date the major disaster began” as defined in § 625.2(e), and such unemployment is a direct result of the major disaster; or
- (2) The individual is unable to reach the place of employment as a direct result of the major disaster; or
- (3) The individual was to commence employment and does not have a job or is unable to reach the job as a direct result of the major disaster; or
- (4) 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 the major disaster; or
- (5) The individual cannot work because of an injury caused as a direct result of the major disaster.

Unemployment is a direct result of the major disaster as provided for in 20 CFR § 625.5(c), which provides:

For the purpose of paragraphs (a)(1) and (b)(1) of this section, a worker's or self-employed individual's unemployment is a direct result of the major disaster where the unemployment is an immediate result of the major disaster itself, and not the result of a longer chain of events precipitated or exacerbated by the disaster. Such an individual's unemployment is a direct result of the major disaster if the unemployment resulted from:

- (1) The physical damage or destruction of the place of employment;
- (2) The physical inaccessibility of the place of employment in the major disaster area due to its closure by or at the request of the federal, state or local government, in immediate response to the disaster; or
- (3) Lack of work, or loss of revenues, provided that, prior to the disaster, the employer, or the business in the case of a self-employed individual, received at least a majority of its revenue or income from an entity in the major disaster area that was either damaged or destroyed in the disaster, or an entity in the major disaster area closed by the federal, state or local government in immediate response to the disaster.

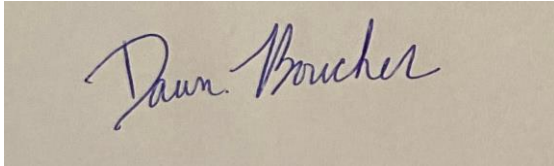
(emphasis added).

The claimant is not eligible for unemployment insurance benefits funded by the State of Iowa because she did not earn ten times her weekly benefit amount after her disqualifying separation from employment with GRE Hotel Management LLC. Claimant therefore meets the requirements of PL 116-136 Section 2102(a)(3)(A)(i); however, she must also meet the requirements of PL 116-136 Section 2102(a)(3)(A)(ii) to qualify as a "covered individual" under the CARES Act. 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). These reasons can change from week to week.

Beginning March 15, 2020 and continuing, the claimant has been totally unemployed because her children, for which she has primary caregiving responsibility, were 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 claimant to work. Further, the claimant was advised by her doctor not to work at this time due to her underlying health conditions making her more susceptible to serious complications should she contract COVID 19. As such, PUA benefits are allowed effective the benefit week beginning March 15, 2020 and continuing provided the claimant remains unemployed pursuant to one of the enumerated reasons listed in PL 116-136 Section 2102(a)(3)(A)(ii)(aa)-(II).

DECISION:

The September 26, 2020 Assessment for Pandemic Unemployment Assistance Benefits decision denying benefits is reversed. Pandemic Unemployment Assistance benefits are allowed effective March 17, 2020 pursuant PL 116-136 Section 2102(a)(3)(A)(ii)(dd) and (ff) and continuing provided the claimant remains unemployed pursuant to one of the enumerated reasons listed in PL 116-136 Section 2102(a)(3)(A)(ii)(aa)-(ll).

A rectangular area containing a handwritten signature in blue ink that reads "Dawn Boucher".

Dawn Boucher
Administrative Law Judge

December 1, 2020
Decision Dated and Mailed

db/mh