

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JAMES R HANESACK
Claimant

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

APPEAL 21A-DUA-00704-DZ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 03/15/20
Claimant: Appellant (1)**

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

STATEMENT OF THE CASE:

James R Hanesack, the claimant/appellant, filed an appeal from the Iowa Workforce Development decision dated January 12, 2021 that determined he was not eligible for Pandemic Unemployment Assistance (PUA) benefits. Mr. Hanesack was properly notified of the hearing. A telephone hearing was held on March 29, 2021, at 4:00 p.m. Mr. Hanesack participated and testified. Official notice was taken of the administrative record. Claimant's Exhibit A was admitted into evidence.

ISSUES:

Is Mr. Hanesack eligible for Pandemic Unemployment Assistance benefits?

FINDINGS OF FACT:

Having reviewed the evidence in the record, the administrative law judge finds: Mr. Hanesack was last employed at Joy Ride Transport, a non-emergency medical transport company. He worked as a part-time driver. Mr. Hanesack drove individuals from nursing homes and other facilities to and from medical appointments.

In March 2020, the United States declared a public health emergency because of the COVID 19 pandemic. Due to the pandemic, the employer laid off Mr. Hanesack and many of the other drivers

Mr. Hanesack's wife has chronic health conditions that make her a high risk for contracting COVID-19 and put her at increased risk of complications if she contracted COVID-19. Mr. Hanesack's wife's doctor advised her to self-quarantine, which she did. Mr. Hanesack's wife's doctor suggested that Mr. Hanesack be careful so as to help reduce his wife's risk. However, neither Mr. Hanesack's wife's doctor nor his own doctor advised Mr. Hanesack to self-quarantine. Mr. Hanesack is not the primary caregiver to his wife.

Mr. Hanesack has had no COVID-19 symptoms. No one in his household has tested positive for COVID. Mr. Hanesack has not scheduled to begin new employment, which was cancelled due to COVID-19. Mr. Hanesack does not need childcare in order to attend work.

Mr. Hanesack was eligible for and received a combination of REGULAR unemployment insurance (UI) benefits, Pandemic Emergency Unemployment Compensation (PEUC) benefits, Extended Benefits (EB) and Federal Pandemic Unemployment Compensation (FPUC) benefits from March 15, 2020 through October 31, 2020. The Iowa Workforce Development decision dated February 17, 2021 determined that Mr. Hanesack is again eligible for PEUC benefits effective December 27, 2020.

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 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

(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).

One of the eligibility requirements for PUA benefits is that a person is not eligible for regular UI benefits or PEUC benefits, including a person who has exhausted their eligibility for these benefits. Mr. Hanesack is eligible for a combination of regular UI benefits, PEUC benefits and FPUC benefits from March 15, 2020 through October 31, 2020. Therefore, Mr. Hanesack is not eligible for PUA benefits during this time period. Mr. Hanesack is eligible for PEUC benefits effective December 27, 2020. Therefore, Mr. Hanesack is not eligible for PUA benefits effective December 27, 2020.

Since Mr. Hanesack is not eligible for regular UI benefits, PEUC benefits, EB, and FPUC benefits for eight weeks from November 1, 2020 through December 26, 2020, the question is whether he is eligible for PUA benefits during this time period.

The administrative law judge has reviewed the facts and applicable laws carefully, and although the administrative law judge is very sympathetic to Mr. Hanesack's situation, he does not meet the definition of an unemployed worker who is entitled to PUA benefits under the law, as outlined above. Mr. Hanesack's unemployment from November 1, 2020 and December 26, 2020 was not for one of the reasons outlined in subparagraphs (aa) – (kk), although it may be the result of a longer chain of events caused or made by COVID-19. Mr. Hanesack does not meet any of the eligibility requirements of subparagraphs (aa) – (kk) from November 1, 2020 through December 27, 2020. PUA benefits are denied

DECISION:

The Iowa Workforce Development decision dated January 12, 2021 that determined Mr. Hanesack was not eligible for Pandemic Unemployment Assistance (PUA) benefits is affirmed.



Daniel Zeno
Administrative Law Judge
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March 31, 2021
Decision Dated and Mailed

dz/ol