

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

CAROL S COX
Claimant

APPEAL NO. 21A-DUA-00014-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

OC: 05/10/20
Claimant: Appellant (4R)

PL 116-136 Section 2102 – Pandemic Unemployment Assistance

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the November 3, 2020 decision that denied Pandemic Unemployment Assistance (PUA) benefits, based on the deputy's conclusion that the claimant did not meet the eligibility requirements. After due notice was issued, a hearing was held on January 30, 2021. Claimant participated. Exhibit A was received into the hearing record. The administrative law judge took official notice of Agency administrative records pertaining to the claim for benefits, including DBRO, KCCO, KPYX, WAGE-A, NMRO, the monetary record, the application for PUA benefits, the Assessment for PUA Eligibility, the deputy's notes regarding the denial of PUA, the June 8, 2020, reference 01, decision, and the administrative law judge decision in 20A-UI-06476-JC-T.

The administrative law judge left the hearing record open for the limited purpose of allowing the claimant the opportunity to submit documentation in support of the claimant's appeal of the PUA denial decision. The claimant submitted a pack of medical records that the administrative law judge received into the hearing records as Exhibit B.

ISSUE:

Is the claimant eligible for PUA?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant established an original claim for benefits that was effective May 10, 2020. The applicable base period in connection with said claim consisted of four quarters of 2019. Throughout the base period and until May 15, 2020, the claimant was employed by Dave's World, Inc. as a full-time assistant manager. The claimant's quarterly wages for 2019 were \$8,565.70, \$8,084.29, \$8,891.88, and \$9,815.12. Iowa Workforce Development set the claimant's weekly benefit amount for regular benefits at \$467.00. The claimant's quarterly wages for the first two quarters of 2020 were \$6,962.97 and \$4,770.34. The claimant established her claim for benefits after she voluntarily quit the Dave's World employment on May 15, 2020. Iowa Workforce Development determined the quit was without good cause attributable to the employer and disqualified the claimant for benefits. No benefits have been

disbursed to the claimant in connection with the May 10, 2020 original claim. The quit was in part in response to a performance improvement plan. The quit was in part because the claimant did not want to work evening shifts because it would interfere with caring for her 13 year old and 11 year old grandsons who reside with the claimant and for whom the claimant is legal guardian and primary caregiver. When the children's school closed for in-person classes in March 2020 due to the COVID-19 pandemic, the academic term ended early for the children and they did not participate in virtual learning for the remainder of the spring term. Before the claimant quit her job at Dave's World, she was able to take her grandchildren to work with her and have them occupy themselves in the adjacent restaurant while the claimant performed her work duties. Since the new school year began on August 24, 2020, the claimant's grandchildren have participated in virtual learning from home. The youngest child required supervision to ensure he remains on task and the claimant provides that supervision.

At the time the claimant established her claim for benefits, Iowa Workforce Development was waiving the work search requirement. When IWD reimposed the work search requirement effective September 6, 2020, the claimant did not look for work. By that time, the grandchildren had commenced virtual school due to COVID-19, which prevented the claimant from being available for work.

The claimant had been dealing with significant pulmonary health issues since she left her employment that placed her at increased risk of serious illness if she contracts COVID-19. The health issues include COPD, emphysema and an October 29, 2020 cancer diagnosis. The claimant advises that she is regularly tested for COVID-19 and that her doctor has advised her to quarantine. The claimant provided medical documentation that does not include a directive to quarantine, but that logically should include such a directive.

The claimant has not contracted COVID-19 and has not been exposed to COVID-19. Nor has anyone in the household contracted COVID-19 or been exposed to COVID-19.

On October 19, 2020, the claimant submitted an application for Pandemic Unemployment Assistance (PUA). The claimant referenced in her application that she was homeschooling the children. The claimant referenced her own health issues, referenced that one of the boys had asthma, and referenced that her elderly mother-in-law and father-in-law also reside in the home. The claimant certified that she was able to work and available for work but for COVID-19.

On November 3, 2020, a Benefits Bureau deputy denied the claimant's application for PUA, based on the deputy's conclusion that the claimant's unemployed status was not due to COVID-19 and was instead due to the claimant's dissatisfaction with the Dave's World employment.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.4(4)a provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

4. a. The individual has been paid wages for insured work during the individual's base period in an amount at least one and one-quarter times the wages paid to the individual during that quarter of the individual's base period in which the individual's wages were highest; provided that the individual has been paid wages for insured work totaling at least three and five-tenths percent of the statewide average annual wage for insured work, computed for the preceding calendar year if the individual's benefit year begins on

or after the first full week in July and computed for the second preceding calendar year if the individual's benefit year begins before the first full week in July, in that calendar quarter in the individual's base period in which the individual's wages were highest, and the individual has been paid wages for insured work totaling at least one-half of the amount of wages required under this paragraph in the calendar quarter of the base period in which the individual's wages were highest, in a calendar quarter in the individual's base period other than the calendar quarter in which the individual's wages were highest. The calendar quarter wage requirements shall be rounded to the nearest multiple of ten dollars.

The claimant was monetarily eligible for regular unemployment insurance benefits funded by the State of Iowa, but was disqualified for those benefits based on the May 15, 2020 voluntary quit.

Public Law 116-136, the CARES Act, at Section 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. Section 2012 provides Pandemic Unemployment Assistance 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. PL 116-136 Section 2102(a), (b) and (c), 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).

(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.

The claimant is not eligible for PUA benefits for the period prior to August 23, 2020, but is eligible for benefits for the period beginning August 23, 2020. The claimant separated from her employment in May 2020 for a reason unrelated to COVID-19. It was not necessary for the claimant to leave her employment in connection with the grandchildren being out of school for the remainder of the spring 2020 academic term because the claimant was able to take the children to work with her. The claimant has been dealing with health issues since she left the employment in May 2020. The issues are long-standing and did not prevent the claimant from working prior to her May 15, 2020 separation. Though the claimant has not provided documentary proof that a doctor advised her to quarantine, a reasonable person would expect a doctor would advise the claimant to quarantine, given her health circumstances and recent cancer diagnosis. Since August 24, 2020, it has been necessary for the claimant to be at home with her youngest grandson to supervise his participation in virtual learning while he is not attending in-person classes due to COVID-19. This makes the claimant unavailable for work due to COVID-19 effective the week that started August 23, 2020.

DECISION:

The November 3, 2020 decision that denied Pandemic Unemployment Assistance (PUA) benefits is modified as follows. The claimant is not eligible for PUA benefits for the period prior to August 23, 2020. The claimant is eligible for PUA benefits for the period beginning August 23, 2020.

REMAND:

This matter is remanded to the Benefits Bureau for determination of the claimant's PUA weekly benefit amount for the period beginning August 23, 2020.



James E. Timberland
Administrative Law Judge

February 25, 2021
Decision Dated and Mailed

jet/scn