

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

MELISSA A WHITE
Claimant

APPEAL 20A-DUA-00681-JC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

OC: 09/13/20
Claimant: Appellant (1)

PL 116-136, Sec. 2012 – Federal Pandemic Unemployment Assistance
20 CFR 625 – Disaster Unemployment Assistance

STATEMENT OF THE CASE:

On October 13, 2020, the claimant filed a timely appeal from the Iowa Workforce Development decision dated October 6, 2020 that determined claimant was not eligible for federal Pandemic Unemployment Assistance (PUA) benefits.

Claimant waived proper notice, a telephone hearing was held on December 7, 2020. The claimant participated personally. The administrative law judge took official notice of the administrative records. Claimant Exhibits A, B, and C were admitted.

ISSUE:

Is the claimant eligible for Pandemic Unemployment Assistance?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: In March 2020, the United States declared a public health emergency based on the COVID-19 pandemic.

Claimant filed a claim for state unemployment insurance benefits with an effective date of September 13, 2020. Iowa Workforce Development denied regular unemployment insurance benefits based upon a lack of qualified earnings to find claimant to be monetarily eligible. Claimant's last insured wages were in 2017 for BP.

Claimant then filed an application for Pandemic Unemployment Assistance. Claimant stated she is self-employed and provided two "timecards" for the weeks ending August 8, 2019 and February 3, 2020 (Claimant Exhibits B and C). Claimant stated she "watches kids", sometime cooks or cleans. Claimant is not a licensed daycare provider and does not routinely watch the children for her two clients, but that it varied. Claimant stated she has not worked since February 10, 2020 due to the pandemic.

Claimant has no other barriers to employment. Claimant has not had symptoms of Covid-19.

REASONING AND CONCLUSIONS OF LAW:

For the reasons set forth below, the administrative law judge finds that claimant is not eligible for PUA benefits.

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.

The issue to be determined here is whether claimant is a “covered individual” within the meaning of applicable law.

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)(l).

An individual must be unemployed and the unemployment must be caused by a major disaster. 20 CFR 625.4.

Title 20 of the Code of Federal Regulations, section 626.2(t) defines an unemployed self-employed individual as follows:

(t) Unemployed self-employed individual means an individual who was self-employed in or was to commence self-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 performance of service in self-employment, and whose unemployment is caused by a major disaster as provided in § 625.5(b).

Title 20 of the Code of Federal Regulations, section 626.5(b) and (c) provide:

(b) Unemployed self-employed individual. The unemployment of an unemployed self-employed individual is caused by a major disaster if—

(1) The individual has a "week of unemployment" as defined in § 625.2(w)(2) 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 where services as a self-employed individual are performed, as a direct result of the major disaster; or

(3) The individual was to commence regular services as a self-employed individual, but does not have a place or is unable to reach the place where the services as a self-employed individual were to be performed, as a direct result of the major disaster; or

(4) The individual cannot perform services as a self-employed individual because of an injury caused as a direct result of the major disaster.

(c) Unemployment is a direct result of the major disaster. For the purposes 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.

Claimant in this case was denied regular state benefits because she is not monetarily eligible.

The administrative law judge has reviewed the facts and applicable laws carefully, and although the administrative law judge is sympathetic to claimant's situation, she does not meet the definition of an unemployed worker who is entitled to PUA benefits under the law, as outlined above. Claimant presented two weeks' records showing she provided babysitting. Claimant has not sufficiently established that she was employed/attached to the labor market, and therefore unemployed due to the COVID-19 pandemic. (The administrative law judge recognizes it may be the result of a longer chain of events precipitated or exacerbated by COVID 19.) The claimant's request for Pandemic Unemployment Assistance is denied.

DECISION:

The Iowa Workforce Development decision dated October 6, 2020 that determined claimant was not eligible for federal Pandemic Unemployment Assistance (PUA) is affirmed.



Jennifer L. Beckman
Administrative Law Judge
Unemployment Insurance Appeals Bureau
Iowa Workforce Development
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Des Moines, Iowa 50319-0209
Fax 515-478-3528

December 18, 2020
Decision Dated and Mailed

jlb/mh

NOTE TO CLAIMANT: You may find additional information about food, housing, and other resources at <https://covidrecoveryiowa.org/> or at <https://dhs.iowa.gov/node/3250>