

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

PATRICIA NORTON
Claimant

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

APPEAL 20A-DUA-00865-DZ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 08/23/20
Claimant: Appellant (1)

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

STATEMENT OF THE CASE:

Patricia A Norton, the claimant, filed an appeal from the Iowa Workforce Development decision dated October 27, 2020 that determined claimant was not eligible for Pandemic Unemployment Assistance (PUA) benefits. Claimant was properly notified of the hearing. A telephone hearing was held on December 11, 2020, at 9:00 a.m. Claimant participated in the hearing. Official notice was taken of the administrative record.

ISSUES:

Is claimant eligible for Pandemic Unemployment Assistance?

FINDINGS OF FACT:

Having reviewed the evidence in the record, this administrative law judge finds: the claimant is employed at Okoboji Four Seasons as a seasonal, part-time hire housekeeper. Claimant began working at the employer on May 11, 2020. Claimant's last day working was on October 23, 2020. She has been on call since that date but has not been called in to go to work. The employer has not been closed due to the COVID-19 pandemic during the time claimant has worked there.

Prior to her current employment, the claimant worked as a kitchen worker at Remington Restaurant. Claimant's last day at that job was August 28, 2019.

Claimant went to the hospital on, or about November 27, 2020. Claimant's doctor advised that she not work. Claimant continues to be under doctor's orders to not work.

Claimant has not had symptoms of Covid-19. No one in claimant's household has been diagnosed with Covid-19. Claimant has not provided care to any family member or member of claimant's household who has been diagnosed with COVID-19. Claimant has not been advised by a medical professional to quarantine due to Covid-19. Claimant has not scheduled to begin new employment, which was cancelled due to Covid-19.

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).

The claimant is not eligible for PUA benefits. The claimant is employed as an on-call housekeeper. However, the employer has not called her into work, likely due to the COVID-19 pandemic. Unfortunately, an employer not calling an on-call employee into work is not one of the qualifying COVID-19 reasons outlined in subparagraphs (aa) – (kk).

DECISION:

The Iowa Workforce Development decision dated October 27, 2020 that determined claimant was not eligible for Pandemic Unemployment Assistance (PUA) benefits is affirmed.



Daniel Zeno
Administrative Law Judge

December 22, 2020
Decision Dated and Mailed

dz/scn