

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

THERESA M LACINA
Claimant

APPEAL 20A-DUA-00775-B2-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 03/29/20
Claimant: Appellant (4)**

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

STATEMENT OF THE CASE:

On October 22, 2020, claimant filed a timely appeal from the Iowa Workforce Development decision dated October 12, 2020 that determined claimant was not eligible for federal Pandemic Unemployment Assistance (PUA).

A telephone hearing was held on December 3, 2020. The party was properly notified of the hearing. The claimant participated personally.

Official notice was taken of the administrative record.

ISSUES:

Is the claimant eligible for Pandemic Unemployment Assistance?

Is the claimant eligible for Federal Pandemic Unemployment Compensation?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds:

Claimant filed the application for PUA on April 30, 2020. The last day claimant worked was March 20, 2020 before her salon and others throughout the state were shut down by the governor until May 15, 2020. Claimant was self-employed at that time as a part time hair colorist and hair stylist.

Claimant did provide self-certification that she was otherwise able to work and available for work but was unemployed, partially unemployed, or unable or unavailable to work because the governor had initially shut down salons and then restricted the number of people in salons. Claimant runs a one-chair salon in her home. Telework was not available.

Claimant is not eligible for regular compensation or extended benefits under state or federal law or Pandemic Emergency Unemployment Compensation (PEUC) as she has exhausted these benefits.

REASONING AND CONCLUSIONS OF LAW:

For the reasons set forth below, the Iowa Workforce Development decision dated October 12, 2020 that determined claimant was not eligible for federal Pandemic Unemployment Assistance (PUA) is reversed and remanded to the benefits bureau for a determination as to whether this reversal would result in additional benefits for claimant for the period between March 20, 2020 and May 15, 2020.

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.

(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—

(l) 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 administrative law judge finds claimant was unemployed, partially unemployed, or unable or unavailable to work because of COVID-19 OR 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 and is unable or unavailable to work because of COVID-19.

Specifically, claimant was unable or unavailable to work because her salon was shut down by the governor from March 20, 2020 through May 15, 2020. After May 15, claimant was allowed to run her salon. Her salon has one chair. Claimant could at all times have one person in her salon. Through scheduling claimant could maximize the use of her salon. Claimant's earnings do not show that she is working a full-time salon where her chair is in constant use. Claimant has not shown the downturn she alleges after May 15, 2020 was connected with Covid.

Benefits are denied after that date. Claimant is otherwise able to work and available for work within the meaning of applicable State law. Claimant is not eligible for regular compensation or extended benefits under State or Federal law or pandemic emergency unemployment compensation as she has exhausted that eligibility. Telework with pay was not available. Claimant was not receiving paid sick leave or other paid leave benefits.

DECISION:

The Iowa Workforce Development decision dated October 12, 2020 that determined claimant was not eligible for federal Pandemic Unemployment Assistance (PUA) is modified in favor of claimant for the period between March 20, 2020 and May 15, 2020. Claimant's benefit amount may need to be recalculated for the weeks in question.



Blair A. Bennett
Administrative Law Judge

December 11, 2020
Decision Dated and Mailed

bab/scn