

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

LEANN RIGATUSO
Claimant

APPEAL 21A-DUA-01785-JC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC:04/12/20
Claimant: Appellant (1R)

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

STATEMENT OF THE CASE:

The claimant filed an appeal from the Iowa Workforce Development decision dated August 10, 2021 that determined claimant was not eligible for federal Pandemic Unemployment Assistance (PUA) benefits. After proper notice, a telephone hearing was held on October 7, 2021. The claimant participated personally. The administrative law judge took official notice of the administrative records.

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 April 12, 2020. Claimant was disqualified from regular unemployment insurance benefits due to her separation with Batson and Associates. See Appeal 21A-UI-10366-DG-T. That decision is final at this time. Therefore, claimant is not eligible for regular unemployment insurance benefits.

Then claimant applied for Pandemic Unemployment Assistance (PUA) benefits. Claimant disputed that she separated from Batson and Associates and continued to work when she filed weekly continued claims. Claimant estimated her wages and did not include time she traveled for her job, even though she was paid.

Claimant works 15-23 hours per week at \$12.00 per hour. Claimant also was self-employed as a merchandiser for Field Force and a stage hand. Her hours were reduced in self-employment due to COVID-19.

Claimant has no other barriers to employment. Claimant had symptoms of Covid-19 and said she was diagnosed on May 23, 2020. Claimant stated she was not released by a doctor for six weeks.

No medical documentation was provided. No one in claimant's household has been diagnosed with Covid-19.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant is not eligible for Pandemic Unemployment Assistance (PUA) benefits.

On March 27, 2020 the Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 was signed into law and included the Relief for Workers Affected by Coronavirus Act set out in Title II, Subtitle A. Section 2102 of the CARES Act created a new temporary federal program entitled Pandemic Unemployment Assistance (PUA) that, in general, provided up to 39 weeks of unemployment benefits and provided funding to states for the administration of the program.

The Continued Assistance to Unemployed Workers Act of 2020 extended the length of the PUA program from 39 weeks to 50 weeks, subject to limitations on the dates in which the additional 11 weeks could be added. On March 11, 2021, the American Rescue Plan Act (ARPA) was enacted and extended the PUA programs to weeks of unemployment ending on or before September 6, 2021. On May 11, 2021, State of Iowa Governor Reynolds announced that Iowa will end its participation in federal pandemic-related unemployment benefit programs effective June 12, 2021. The last payable week for PUA in Iowa was the week-ending June 12, 2021.

The CARES Act was specifically designed to mitigate the economic effects and consequences of the COVID-19 public health emergency including providing temporary benefits for individuals who were not eligible for regular State funded unemployment insurance benefits. The provisions of the CARES Act operate in tandem with the eligibility requirements of the Federal-State Unemployment Insurance program.

If a State agreed to administer the program, that State was tasked with the responsibility to ensure program integrity. These functions included conducting audits, investigation, and other oversight activities to ensure adherence to existing unemployment insurance laws and policies, as well as ensure proper adherence to the CARES Act requirements.

In order to be a covered individual who was eligible for PUA benefits, that individual could not be eligible for regular unemployment insurance benefits, or extended benefits under State or Federal law, or Pandemic Emergency Unemployment Compensation (PEUC) under the CARES Act. Covered individuals could include those who are self-employed, gig workers, those seeking part-time employment, and individuals lacking sufficient work history.

In order to be a covered individual who was eligible for PUA benefits, that individual could not have the ability to telework with pay or receive paid sick leave or other paid leave benefits that exceeded their weekly-benefit amount, plus \$15.00. Lastly, in order to be a covered individual who was eligible for PUA benefits, that individual must establish that they were otherwise able to work and available for work within the meaning of applicable State law, except that they were unemployed, partially unemployed, or unable or unavailable to work due to one of the COVID-19 related reasons identified in Section 2102(a)(3)(A)(ii)(I) of the CARES Act.

The issue to be determined here is whether claimant is a "covered individual" 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—

(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 United States Code authorizes the Secretary of the United States Department of Labor to enter into agreements with states to administer Pandemic Unemployment Assistance (PUA) benefits under the CARES Act. PL 116-136, Sec. 2102(f). The United States Department of Labor has issued operating instructions to states in implementing section 2102 of the CARES Act. Iowa Code § 96.11 mandates that Iowa Workforce Development “shall cooperate with the United States department of labor to the fullest extent consistent with the provisions of this chapter. . .” When implementing section 2102, the operating instructions direct states to first consult section 2102 of the CARES Act and then the operating instructions. When both are silent, states should refer to section 625 of title 20, Code of Federal Regulations. When consulting the regulations, the term “COVID-19 public health emergency” is to be substituted for the term “major disaster” and the term “pandemic is to be substituted for the term “disaster.”

In the Department of Labor’s Unemployment Insurance Program Letter No. 16-20, Change 2, it states:

b. Clarification on item (kk) of acceptable COVID-19 related reasons. Section 2102(a)(3)(A)(ii)(l)(kk) of the CARES Act provides for the Secretary of Labor to establish any additional criteria under which an individual may self-certify eligibility for PUA benefits. Section C.1.k. of Attachment I to UIPL No. 16-20 provides for coverage of an independent contractor whose ability to continue performing his or her customary work activities is severely limited because of the COVID-19 public health emergency. The example provided includes a driver of a ride sharing service who has been forced to suspend operations because of COVID-19. Question 42 of Attachment I to UIPL No. 16-20, Change 1, explains that an independent contractor who experiences a “significant diminution of work as a result of COVID-19” may be eligible for PUA.

With these examples in UIPL Nos. 16-20 and 16-20, Change 1, the Secretary provides coverage under item (kk) to those self-employed individuals who experienced a significant diminution of services because of the COVID-19 public health emergency, even absent a suspension of services.

Here, claimant’s employment consists of both insured wages and self-employment. Claimant continued to work part-time employment in her covered employment (Batson and Associates) but

did not accurately report her wages when filing claims for unemployment insurance benefits. As such, the administrative law judge cannot evaluate whether claimant would be eligible for partial benefits based upon a loss of hours/wages with her self-employment. The issue of claimant's unrecorded wages is remanded to the Benefits Bureau for an investigation/adjustment of wages.

Further, claimant did not provide sufficient evidence regarding being directed to quarantine for six weeks.

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. The request for Pandemic Unemployment Assistance is denied.

DECISION:

The Iowa Workforce Development decision dated August 10, 2021 that determined claimant was not eligible for federal Pandemic Unemployment Assistance (PUA) is AFFIRMED. The claimant's request for PUA benefits is denied.

REMAND: The issue of claimant's unrecorded wages is remanded to the Benefits Bureau for an investigation/adjustment of wages.



Jennifer L. Beckman
Administrative Law Judge
Unemployment Insurance Appeals Bureau
Iowa Workforce Development
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax 515-478-3528

October 26, 2021
Decision Dated and Mailed

jlb/scn

NOTE TO CLAIMANT:

This decision determines you are not eligible for PUA benefits. If you disagree with this decision you may file an appeal to the Employment Appeal Board by following the instructions on the first page of this decision. You may find information about food, housing, and other resources at <https://covidrecoveryiowa.org/> or at <https://dhs.iowa.gov/node/3250>

Iowa Finance Authority also has additional resources at <https://www.iowafinance.com/about/covid-19-ifa-recovery-assistance/>