

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

TABU KAZEZE
Claimant

APPEAL NO. 21R-DUA-01546-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

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

PL 116-136 Section 2102 – Pandemic Unemployment Assistance

STATEMENT OF THE CASE:

The claimant, Tabu Kazeze, filed a timely appeal from the December 28, 2020 Assessment for PUA Benefits 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 July 20, 2021. The claimant participated. Exhibit A was received into the hearing record.

The administrative law judge took official notice of Agency administrative records pertaining to the claimant's claim for benefits, including DBRO, KCCO, KPYX, WAGE-A, NMRO, the monetary record, the application for PUA benefits, the Assessment for PUA Eligibility, and the deputy's notes regarding the denial of PUA.

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 August 23, 2020. Iowa Workforce Development deemed the claimant "monetarily eligible" for regular benefits and set the weekly benefit amount for regular benefits at \$531.00.

The applicable base period in connection with August 23, 2020 original claim consisted of the second, third and fourth quarter of 2019 and the first quarter of 2020. The claimant's 2019 quarterly wages were as follows:

<u>EMPLOYER</u>	<u>ACCT-LOC</u>	<u>2019/1</u>	<u>2019/2</u>	<u>2019/3</u>	<u>2019/4</u>
THE ANTHEM COMPANIES, INC	346542-000	24020	19496		
CENTENE MANAGEMENT COMPAN	607119-000		4231	18196	3359

The claimant had worked for Anthem as a full-time nurse.

The claimant voluntarily quit the Centene Management Company employment on October 1, 2019. The claimant had worked for Centene as a full-time Concurrent Review Nurse. The claimant left that employment due to dissatisfaction with the work environment. Iowa Workforce Development deemed the quit to be without good cause attributable to the employer. See the December 18, 2020, reference 02, decision. The claimant received regular benefits for the period of August 23, 2020 to December 5, 2020, but the reference 02 decision disqualified the claimant for regular benefits, including the regular benefits that had already been received.

The claimant earned no wages for insured work in 2020.

In July 19, 2019, the claimant entered into a supplemental self-employment venture as a host home provider for an individual with intellectual and/or developmental disabilities. Under the arrangement with Mosaic and the agency it uses to facilitate such arrangements, the claimant provided a room in her home for a person with disabilities and assisted that person with supported community living goals. The claimant received per diem compensation. The claimant cannot recall the compensation amount. The claimant does not believe taxes were withheld. The claimant did not receive an annual 1099 tax form. The claimant under the compensation to be non-taxable under Internal Revenue Service rules regarding foster care. The claimant continued to house a particular client until August 2020, when she decided she no longer wanted the particular client to reside in her home due to what she perceived to be inappropriate attention-seeking conduct directed at the claimant's significant other. The client was then placed elsewhere. The client's departure had no connection to COVID-19. The claimant wished to be matched with a new client, but did not receive a new client. The claimant understood that few clients were being matched with homes during the COVID-19 pandemic. At the time of the appeal hearing, the claimant was still without a new client, but was anticipating a visit to her home that could potentially lead to placement of a new client in her home.

In December 2020, the claimant commenced a casual search for nursing-related work she could perform from home. The claimant did not seek work that would require her to work outside her home.

In February 2021, the claimant commenced employment with Allegis Group, Inc. for which she performed work similar to the work she had previously performed for Anthem and Centene. The claimant has no earlier job offers. The work for Allegis was computer-based, could be performed from home, and involved authorizing medical imaging and other health insurance related matter.

As of August 2020, the claimant's household consisted of the claimant, her 12-year-old son, and her six-year-old daughter. No one in the claimant's household contracted or was exposed to COVID-19. The claimant shares physical custody of the children and the children reside with the claimant 50 percent of the time.

The claimant's children attend school in the Waukee Community School District. When the academic year began in August 2020, the District offered full-time in-person classes. The District allowed families to opt out of in-person classes. The children's father elected to keep the 12-year-old at home due to a history of asthma and out of concern for the risk posed by potential exposure to COVID-19. The children's father also elected to keep the six-year-old at home for good measure. The parents' decision was not based on advise from a doctor and was instead based on information received through news media, including Centers for Disease Control (CDC) recommendations. The parents' elected to have the children continue with in-home schooling through the end of the academic year. Due to the history of asthma, the 12

year old received a double vaccination against COVID-19. The six-year-old has a healthier constitution and rarely succumbs to illness.

At about the time of Thanksgiving in November 2020, the Waukee Community School District temporarily discontinued in-person classes, which had no impact on the claimant or her children, who were already attending school from home.

On September 23, 2020, the claimant submitted her application for Pandemic Unemployment Assistance (PUA). The claimant referenced her son's history of asthma and the decision to keep him and his younger sibling at home. The claimant made no reference to her nursing credentials or her history of performing full-time nursing-related insurance work. The claimant self-certified that she met the PUA eligibility requirements.

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 regular benefits in connection with her November 2019 voluntary quit. Due to the disqualification, the claimant exhausted non-PUA benefits effective August 23, 2020.

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

(II) 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 (I); 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)(I).

(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. The claimant's circumstances since she established the August 23, 2020 original claim do not fit within the eligibility criteria set forth at section 2102(a)(3)(A)(ii) of the CARES Act. Neither the claimant nor anyone in her household has been diagnosed with COVID-19. The claimant's family was not impacted by a COVID-19 related school closure. The claimant did not separate from an employment due to COVID-19. A doctor did not advise the claimant or anyone in her household to quarantine due to COVID-19. The claimant's discontinuation of the host home provider arrangement in August 2020 was not caused by COVID-19. The claimant was at all relevant times had marketable nursing skills, but deferred an active and earnest search for new full-time employment. Once the claimant made herself available for such work, she was readily able to secure new employment.

DECISION:

The December 28, 2020 Assessment for PUA Benefits decision that denied Pandemic Unemployment Assistance (PUA) benefits is affirmed. The claimant is not eligible for PUA benefits.

A rectangular box containing a handwritten signature in black ink that reads "James E. Timberland".

James E. Timberland
Administrative Law Judge

October 26, 2021
Decision Dated and Mailed

jet/scn