

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

RHONDA L MARCHANT
Claimant

APPEAL 20A-DUA-00624-AW-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 03/15/20
Claimant: Appellant (4)**

PL 116-136, Sec. 2012 – Federal Pandemic Unemployment Assistance
Iowa Code § 96.6(2) – Filing – Timely Appeal

STATEMENT OF THE CASE:

Claimant filed an appeal from the Iowa Workforce Development decision dated September 25, 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 November 20, 2020, at 8:30 a.m. Claimant participated in the hearing with her attorney, Tyler Smith. Claimant's Exhibits A – C were admitted. Official notice was taken of the administrative record.

ISSUES:

Whether claimant is eligible for Pandemic Unemployment Assistance.
Whether claimant filed a timely appeal.

FINDINGS OF FACT:

Having reviewed the evidence in the record, the administrative law judge finds: The Unemployment Insurance Decision was mailed to claimant at the correct address on September 25, 2020. The decision states that it becomes final unless an appeal is postmarked or received by Iowa Workforce Development Appeals Section by October 8, 2020. Claimant appealed the decision online on October 7, 2020. The appeal was received by Iowa Workforce Development on October 7, 2020.

The administrative law judge further finds: Claimant began her employment as a Dental Hygienist for Dr. Sarah Kennedy approximately 12 years ago. Claimant last performed work for Dr. Kennedy on March 12, 2020. On March 16, 2020, Dr. Kennedy closed her dental office due to Covid-19. Claimant was advised by her physician to not return to work and to quarantine due to Covid-19 and her underlying medical conditions. On May 12, 2020, claimant resigned her employment due to her physician's advice.

Claimant applied for unemployment insurance (UI) benefits effective March 15, 2020. Claimant is eligible for UI from March 15, 2020 through May 16, 2020; claimant is not eligible for UI thereafter.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that claimant's appeal was timely.

Iowa Code § 96.6(2) provides, in pertinent part: “[u]nless the claimant or other interested party, after notification or within ten calendar days after notification was mailed to the claimant's last known address, files an appeal from the decision, the decision is final and benefits shall be paid or denied in accordance with the decision.”

Iowa Admin. Code r. 871-24.35(1) provides:

1. Except as otherwise provided by statute or by division rule, any payment, appeal, application, request, notice, objection, petition, report or other information or document submitted to the division shall be considered received by and filed with the division:

(a) If transmitted via the United States Postal Service on the date it is mailed as shown by the postmark, or in the absence of a postmark the postage meter mark of the envelope in which it is received; or if not postmarked or postage meter marked or if the mark is illegible, on the date entered on the document as the date of completion.

(b) If transmitted via the State Identification Data Exchange System (SIDES), maintained by the United States Department of Labor, on the date it was submitted to SIDES.

(c) If transmitted by any means other than [United States Postal Service or the State Identification Data Exchange System (SIDES)], on the date it is received by the division.

Claimant's appeal was due October 8, 2020. Claimant's appeal was received by Iowa Workforce Development on October 7, 2020. Claimant's appeal is timely.

The next issue to be determined is whether claimant is eligible for Pandemic Unemployment Assistance. 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—

(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).

Here, claimant is eligible for unemployment insurance benefits from March 15, 2020 through May 16, 2020. Because claimant is eligible for UI, she cannot be eligible for PUA for that period of time. Effective May 17, 2020, claimant is not eligible for UI. Claimant was advised by a health care provider to quarantine due to Covid-19 and underlying health issues. Claimant meets the eligibility requirements outlined in subparagraph (ff) herein and, thus, qualifies for PUA benefits. Accordingly, benefits are allowed effective May 17, 2020.

DECISION:

Claimant filed a timely appeal. The Iowa Workforce Development decision dated September 25, 2020 that determined claimant was not eligible for Pandemic Unemployment Assistance (PUA) benefits is modified in favor of appellant. Claimant is eligible for PUA effective May 17, 2020.



Adrienne C. Williamson
Administrative Law Judge
Unemployment Insurance Appeals Bureau
Iowa Workforce Development
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515)478-3528

December 4, 2020
Decision Dated and Mailed

acw/mh