



### Unemployment Benefits Decisions

Ref#/date	ALJ#	Effect
1/6/21 REF01	02762	<p>Denial of benefits for being on call working for the same hours and wages as in contract of hire. The REF01 decision addresses the first series of claims which ended the week ending 10/3/20 when the Claimant stopped filing weekly claims for a while.</p> <p>The ALJ decision also addresses the second claim series which ran from November 15, 2020 through December 5, 2020. This ALJ decision also addresses the issues in Ref02, and Ref03 and summarizes the effect of her decisions.</p> <p>The ALJ decision allows benefits from (1) 3/22/20 through 4/18/20, and (2) 8/23/20 through 9/5/20. Regular/PEUC benefits are not allowed for any other weeks from 3/15/20 through 12/5/20.</p>
1/6/21 Ref02	02764	Denial of benefits for being on call working for the same hours and wages as in contract of hire. Denial as of 11/22/20 covering the <b>second</b> series of claims which ended the week ending 12/5/20 when the Claimant stopped filing weekly claims altogether.
1/6/21 Ref03	02767	Denial of benefits over the summer since the Claimant had reasonable assurance of working again in the fall. Denial as of 5/31/20 through 8/22/20.

### Overpayment Decisions

1/31/21 Ref04	02770	Assessing overpayment of regular benefits during the first claim series.
1/31/21 Ref05	02772	Assessing overpayment of PEUC benefits during the first claim series.
1/31/21 Ref06	02773	Assessing overpayment of FPUC benefits of \$8,400 for period ending July 25, 2020.
1/31/21 Ref07	02776	Assessing overpayment of Lost Wages Assistance during the first claim series. ALJ reduced the overpayment for two weeks from 8/23/20 through 9/5/20 because benefits were allowed those two weeks.

The Claimant was not paid benefits during her second claim series, and so no overpayment occurred for that series.

### Pandemic Disaster Benefits (PUA) Decisions

1/23/21 REF08	00803	Addressing the claim for <b>PUA</b> benefits. These are disaster benefits, not unemployment benefits, and may be paid for times when one is denied unemployment benefits. ALJ allows PUA only for the two weeks between 9/20/20 and 10/3/20.
5/10/21 REF10	01570	This case. The REF10 decision seemingly allowed PUA benefits for some period despite the ruling in 00803.

The Claimant failed to appeal any of the regular benefit decisions, the PEUC decision, or the overpayment decision to this Board. Moreover, the Petitioner did not appeal the ALJ decision on PUA benefits, case 21A-DUA-00803. We recognize there were a lot of decisions but the Administrative Law Judge in case 02762 gave a detailed summary of what she was doing in her decisions, and in case 00803 she explained PUA was only allowed for two weeks. So we do not address the regular benefits, the PEUC, or the overpayment decisions since none were appealed to us. We do choose to address the question of PUA benefits. Workforce itself has chosen to issue a redetermination of PUA benefits. Since there is no Employer chargeable to be adversely affected, and the redetermination helps the Claimant we take up the issue of PUA benefits and modify the Administrative Law Judge's decision in 00803 by allowing some additional weeks of PUA benefits.

#### *Backdating*

Since the Claimant filed a regular UI claim on March 15, 2020 and since she was found ineligible for that claim for the weeks in issue in this case, she should not have a problem with backdating:

As discussed in Question 4 of Attachment I to UIPL No. 16-20, Change 1, individuals filing for PUA must have their claim backdated to the first week during the Pandemic Assistance Period (PAP) [which commences on February 8, 2020] in which the individual was unemployed, partially unemployed, or unable or unavailable to work because of a COVID-19 related reason listed in Section 2102(a)(3)(A)(ii)(I) of the CARES Act. Section 201(f) of the Continued Assistance Act provides a limitation on backdating for claims filed after December 27, 2020 (the enactment date of the Continued Assistance Act).

If an individual filed a **regular** UC claim on or before **December 27, 2020**, and the state later determines that the individual is not eligible for regular UC, the state should use the date the claimant filed the **regular UC claim** as the date of filing for the **PUA claim, so long as the individual met the requirements for PUA as of that date**. For example, if the individual filed a regular UC application on October 4, 2020 and the state determined the claimant was not eligible for regular UC on January 15, 2021, the PUA application will be deemed to have been filed on October 4, 2020 and the PUA claim will be backdated to that date.

[Attachment I to UIPL No. 16-20, Change 4](#), p. I-18 to I-19 (DOL ETA 1/8/21). Additional explanation was more recently provided:

An individual who establishes retroactive initial eligibility for PUA must then be required to complete continued claim forms for each week (including the self-certification declaration that includes the original and expanded list of COVID-19 related reasons) to receive payment. **States must process this additional information and make retroactive payment as appropriate.** This includes paying FPUC at the appropriate amount for any weeks paid during the relevant time Period

[UIPL No. 16-20, Change 5](#), p. 12 (DOL ETA 1/8/21). Since this Claimant filed her regular UI claim in March of 2020, her PUA claim can be backdated to cover the weeks at issue in this case.

#### *Between Academic Terms*

In general, a Claimant may not collect benefits during academic breaks like the summer break, or the customary spring break, if the Claimant has reasonable assurance of working on the same terms at the end of the break. Here the Claimant has been denied based on reasonable assurance in unappealed Administrative Law Judge decisions covering the spring break in 2020 and the summer break in 2020. She cannot collect PUA over these periods either and so we do not give her any additional PUA eligibility prior to March 21, 2020, nor from 5/31/20 through 8/22/20. Fundamentally, she would have been unemployed over that spring break and summer break even had there been no Pandemic. *See* [UIPL, 16-20 Change 5](#), p. 7 (DOL ETA 2/25/21); [UIPL, 16-20 Change 5](#), Attachment II (DOL ETA 2/25/21)(flowchart).

#### *Reduction in Substitutes*

The federal Department of Labor has instructed that **eligible persons would include:**

....

g) 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. ...

....

j)The individual's place of employment is closed as a direct result of the COVID-19 public health emergency. ...

k) The individual meets any additional criteria established by the Secretary for unemployment assistance under this section....

UIPL 16-20, Attachment 1.

([https://wdr.doleta.gov/directives/attach/UIPL/UIPL\\_16-20\\_Attachment\\_1.pdf](https://wdr.doleta.gov/directives/attach/UIPL/UIPL_16-20_Attachment_1.pdf)).

More recently, The federal Department of Labor has instructed that **eligible persons would also include:**

An individual is an employee and their hours have been reduced or the individual was laid off as a direct result of the COVID-19 public health emergency.

This new COVID-19 related reason **expands eligibility** beyond the current provision of item (jj) of Section 2102(a)(3)(A)(ii)(I) of the CARES Act, which is limited to situations where the individual's place of employment is closed. Under this new COVID-19 related reason, **if** an individual is laid off because the place of employment is **partially closed** (either permanently or temporarily) or **the individual has experienced a reduction in hours, the individual may now selfcertify eligibility.**

UIPL 16-20, Change 5, p. 8.

([https://wdr.doleta.gov/directives/attach/UIPL/UIPL\\_16-20\\_Change\\_5\\_acc.pdf](https://wdr.doleta.gov/directives/attach/UIPL/UIPL_16-20_Change_5_acc.pdf)).

Under this guidance we allow PUA benefits for those periods when Ames Schools were working remotely and there was a markedly reduced need for substitutes.

In particular:

- PUA Benefits are allowed for April 19, 2020 through June 6, 2020.
- PUA Benefits are allowed for September 6, 2020 through September 19, 2020
- PUA Benefits are allowed for September 20, 2020 through October 3, 2020 (the period allowed by the ALJ in case 21A-DUA-00803
- PUA Benefits are allowed for November 15, 2020 through December 5, 2020.

PUA benefits are denied for weeks outside these periods.

We note that given when regular benefits are allowed the Claimant is now allowed benefits of one sort or the other from 3/22/20 through 6/6/20 and again from 8/23/20 through 10/3/20 (the first time the Claimant stopped claiming for benefits) and again from November 15, 2020 through December 5, 2020 (when she stopped filing altogether). This leaves the Claimant without benefits for the spring break, and the summer break based on the decisions regarding reasonable assurance, which she did not appeal.

### *Remand*

The matter is remanded to Iowa Workforce Development for the appropriate calculation of benefits, and any other appropriate determination regarding the Claimant's ongoing eligibility during the weeks we have allowed benefits. Also Workforce should adjust any overpayments accordingly.

We note the Claimant may still request a waiver of any FPUC or PEUC overpayments which have been, or will be, determined following this remand. Such a waiver request is made to Iowa Workforce Development. Instructions for requesting a waiver of this overpayment can be found at <https://www.iowaworkforcedevelopment.gov/unemployment-insurance-overpayment-and-recovery>. The Claimant should then carefully read and follow all instructions from Iowa Workforce on how to apply for waiver of any federal overpayments, what information to supply, and how to appeal if necessary.

### **DECISION:**

The decision of the Administrative Law Judge is **REVERSED**. We are able to address the issue of the Claimant's eligibility for Pandemic Unemployment Assistance (PUA).

In particular:

- PUA Benefits are allowed for April 19, 2020 through June 6, 2020.
- PUA Benefits are allowed for September 6, 2020 through September 19, 2020
- PUA Benefits are allowed for September 20, 2020 through October 3, 2020 (the period allowed by the ALJ in case 21A-DUA-00803
- PUA Benefits are allowed for November 15, 2020 through December 5, 2020.

PUA benefits are denied for weeks outside these periods.

This matter is remanded to Iowa Workforce, Benefits Bureau as set out above.

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James M. Strohman

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Ashley R. Koopmans

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Myron R. Linn

RRA/fnv