

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

MARLENE J BRALLIER
Claimant

APPEAL NO. 08A-DUA-00010-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**FEDERAL UNIT
ADMINISTRATIVE OFFICE**

**OC: 06/08/08 R: 03
Claimant: Appellant (1)**

20 CFR 625.4 - Unemployment Caused by a Major Disaster

STATEMENT OF THE CASE:

The claimant appealed a Disaster Unemployment Assistance (DUA) decision dated July 16, 2008, that concluded the claimant was ineligible to receive DUA because the claimant was not unemployed as a result of a major disaster. A telephone hearing was scheduled for August 12, 2008. Proper notice of the hearing was given to the claimant. The claimant failed to provide a telephone number at which she could be reached for the hearing and did not participate in the hearing. Based on the administrative file and the law, the following findings of fact, reasoning and conclusions of law, and decision are entered.

ISSUE:

Is the claimant eligible to receive DUA benefits?

FINDINGS OF FACT:

The claimant filed an application for DUA on June 25, 2008, with an effective date of June 8, 2008. The claimant is a self-employed farmer. The claimant has a 85-acre farm in Floyd County, Iowa, which was declared a major disaster area. She raises corn and livestock on the farm.

The claimant planted 65 acres of corn in 2008. Starting in June 2008, disaster conditions in the form of heavy rains caused flooding on the claimant's farm and damage to the crops. The disaster conditions caused about 20 percent of her crops to be lost completely or severely damaged. There is no substantial proof that disaster conditions caused the claimant to be unable to perform her customary self-employment.

REASONING AND CONCLUSIONS OF LAW:

"The Robert T. Stafford Disaster Relief and Emergency Assistance Act" includes a program for the payment of unemployment assistance benefits to individuals unemployed as a result of a major disaster. See 42 USC §§ 5177, 5189a; 20 CFR Part 625. Under the pertinent part of the regulations, an individual is eligible to receive a payment of DUA for a week if the week is a "week of unemployment" that is caused by a major disaster. 20 CFR § 625.4(d) and (f).

For a self-employed individual, a "week of unemployment" is a week during which an individual is "totally, part-totally, or partially unemployed." An individual is "totally unemployed" in a week during which he performs no services in self-employment. "Partially unemployed" is defined as "a week during which the individual performs less than the customary full-time services in self-employment, as a direct result of the major disaster, and earns wages not exceeding the maximum earnings allowance prescribed by State law." 20 CFR § 625.2(w)(2).

The claimant has not demonstrated sufficient damage to her crops to warrant an award of DUA throughout the crop season or to show the claimant was unable to perform her customary hours of work due to the disaster. The claimant is ineligible to receive DUA benefits because she was not unemployed due to the disaster.

The problem in this case is that the information in the administrative file is insufficient to make a determination on what weeks the claimant worked less than her customary full-time hours in self-employment due to the disaster. Without the claimant's testimony, there is no reliable basis for making findings on this material question.

DECISION:

The DUA decision dated July 16, 2008, is affirmed. The claimant is ineligible to receive DUA benefits.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/pjs