

**BEFORE THE  
EMPLOYMENT APPEAL BOARD  
Lucas State Office Building, 4<sup>TH</sup> Floor  
Des Moines, Iowa 50319  
eab.iowa.gov**

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**DEBRA A LANCASTER**

Claimant

and

**MISSISSIPPI VALLEY REGIONAL**

Employer

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**HEARING NUMBER: 22B-UI-05786**

**EMPLOYMENT APPEAL BOARD  
DECISION**

**NOTICE**

**THIS DECISION BECOMES FINAL** unless (1) a **request for a REHEARING** is filed with the Employment Appeal Board within **20 days** of the date of the Board's decision or, (2) a **PETITION TO DISTRICT COURT IS FILED WITHIN 30 days** of the date of the Board's decision.

A **REHEARING REQUEST** shall state the specific grounds and relief sought. If the rehearing request is denied, a petition may be filed in **DISTRICT COURT** within **30 days** of the date of the denial.

**SECTION:** 96.5-1, 96.6-2

**DECISION**

The Claimant appealed this case to the Employment Appeal Board. The members of the Employment Appeal Board reviewed the entire record. The Appeal Board finds the administrative law judge's decision is correct. With the following modification, the administrative law judge's Findings of Fact and Reasoning and Conclusions of Law are adopted by the Board as its own. The administrative law judge's decision is **AFFIRMED** with the following **MODIFICATION**:

The Department of Labor provides the following guidance on a state's ability to convert a UI claim to a PUA claim without having the claimant file a new application.

6. Question: Can the state **convert** an ineligible regular UC claim to a PUA claim?

Answer: It depends. **A new application would not be required if the state has gathered sufficient information on the initial application, including a self-certification** from the individual that one of the COVID-19 related reasons listed in section 2102(a)(3)(A)(ii)(I) of the CARES Act is applicable.

The base period for computing a PUA WBA is Calendar Year (CY) 2019, which may be different from the regular UC claim, so additional information may be required. Reference section C and Attachment I in UIPL No. 16-20 Change 1 for additional information on calculating the PUA WBA.

UIPL, 16-20, Attachment I, Change 1, p. I-2 (DOL ETA 4/27/2020). Certainly by the time of the Administrative Law Judge hearing in this matter the Claimant had supplied sufficient information in sworn statements to constitute a self-certification that she was not working due to a covered reason, being sick with COVID-19. For this reason we will now convert the Claimant's regular benefit claim to a PUA claim as allowed by the Department of Labor.

When a claim for PUA is filed after the end of the program special rules apply.

Iowa ended participation in all Pandemic benefits including PUA as of June 12, 2021. <https://governor.iowa.gov/press-release/iowa-to-end-participation-in-federal-unemployment-benefit-programs%C2%A0citing-strong>. PUA is a federal benefit and the federal Department of Labor address the situation where someone files for PUA after the end of the program in a State:

2.Question: May an individual file a new PUA application after the 30-day required period if they filed for regular unemployment compensation (UC) prior to **October 6, 2021**, but the state does not make a determination of ineligibility for regular UC until after October 6,2021?

Answer: Yes. If the individual self-certifies that they were unemployed, partially unemployed, or unable or unavailable to work because of approved COVID-19 related reason(s) for weeks of unemployment ending on or before the date of state termination or program expiration (whichever comes first), they may file a new PUA application after the 30-day required period only if they: (1) **filed a regular UC claim prior to the end of the 30-day required period** for accepting new PUA applications after the date of state termination or program expiration (whichever comes first) **and** (2) **are found ineligible for regular UC (or PEUC or EB) after the end of the 30-day required period**. However, such an individual must file the PUA claim within 21 days of the determination of ineligibility for regular UC. The state must notify affected individuals of this PUA filing deadline, which may be done as part of the notification that their UC (or PEUC or EB) claim was denied or in a separate notification.

UIPL 16-20, Change 6, Attachment 2.

[https://wdr.doleta.gov/directives/attach/UIPL/UIPL\\_16-20\\_Change-6\\_Attachment-2.pdf](https://wdr.doleta.gov/directives/attach/UIPL/UIPL_16-20_Change-6_Attachment-2.pdf)

First of all, the 30 day processing period in Iowa ended thirty days after June 12, 2021. So the period for processing new PUA claims ended on July 12, 2021. The Claimant cannot file a PUA claim any earlier than today, which is well past the 30-day period. The exception to deadline is when a claim for regular benefits is denied *after* July 12, 2021. Here the denial of regular benefits is today, and so we are permitted to convert the claim to a PUA claim even though the PUA benefit has ended. This means the Claimant can have a PUA claim, and the next issue is backdating of that claim.

Since the Claimant filed a regular UI claim on August 2, 2020 and is now found ineligible for that claim, she falls under the federal backdating provisions:

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).

We are converting the claim to a PUA claim today, which is after July 12, 2021, and so **backdating to July 29, 2020 is to be allowed**. Given this conversion following a denial of regular benefits on a regular benefit claim predating December 27, 2020, the PUA claim “must be backdated to the first week during the Pandemic Assistance Period that 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.” *Attachment III to UIPL No. 16-20 Change 4*, p. III-1 (DOL ETA 1/8/2021). This means that the period of the leave at issue in this case will be within the Pandemic Assistance Period and may be compensable for PUA benefits, if the Claimant is otherwise eligible for those benefits.

*Merits of PUA Claim:* The Coronavirus Aid, Relief, and Economic Security Act, Public Law 116-136, Sec. 2102, in conjunction with the Continued Assistance Act, Public Law No: 116-260, and the American Rescue Plan Act, Public Law No: 117-2, provide for unemployment benefit assistance to any covered individual for any weeks beginning on or after January 27, 2020 and ending, in Iowa, on or before June 12, 2021, during which the individual is unemployed, partially unemployed, or unable to work due to COVID-19.

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

The individual has been diagnosed with COVID-19 or is experiencing symptoms of COVID-19 and is seeking a medical diagnosis. Examples may include:

An individual who has to quit his or her job as a direct result of COVID-19 because the individual has tested positive for the coronavirus or has been diagnosed with COVID-19 by a qualified medical professional, and continuing work activities, such as through telework, is not possible by virtue of such diagnosis or condition;

UIPL 16-20, Attachment 1, p. I-4

([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)).

Furthermore, under the CARES Act, an individual who is sick with COVID-19 and unable to work, but otherwise would be able to work, are allowed benefits. CARES Act §2102(a)(3)(A)(ii)(I)(aa) (“the individual has been diagnosed with COVID-19 or is experiencing symptoms of COVID-19 and seeking a medical diagnosis”).

Given our findings of fact, and these provisions we find the Claimant is **eligible for PUA** during the period of unemployment caused by the Claimant’s quitting work at Mississippi Valley Regional, and during any time she was unavailable to work because sick with COVID-19. Based on the current state of the record benefits are allowed from July 29, 2020 until September 12, 2020.

At this time the Claimant has not supplied us with sufficient information that unemployment following September 12, 2020 was a direct result of the Pandemic. **The Claimant may supply evidence that she was too sick from COVID-19 to work after September 12, 2020 by applying for rehearing from today’s decision.** An application for rehearing must be filed 20 days from today’s decision. If the Claimant certifies to us days subsequent to September 12, 2020 during which the Claimant was too sick from COVID-19 to return to the workforce we will allow benefits during that time as well, but not later than June 12, 2021. The Claimant does not need medical documentation, although this would be helpful. A statement of when she was too sick from COVID to work, and that she so swears to these dates under penalty of perjury, would be sufficient. For example, a statement of the dates she was too sick to work because of COVID followed by “I swear under penalty of perjury that the foregoing is true and correct. {sign}” is generally sufficient.

Since the Claimant does not have adequate wages in calendar year 2019 to be eligible for regular benefits she will need to supply income information to Iowa Workforce. The Claimant should be aware that Iowa Workforce is required to get from her documentation substantiating employment. Iowa Workforce should inform her of the deadline and she should meet that deadline, or else she will only be allowed \$203 a week.

To be clear, we currently award the Claimant a minimum of \$203 a week for the seven weeks from July 26, 2020 through September 12, 2020. She can receive more *weeks* of benefits if she sends us information on rehearing (in 20 days) certifying to us that COVID-19 made her too sick to work for weeks after September 12, 2020 (but not after June 12, 2021). She can receive more money *per week* if she responds to a request for earnings information from *Iowa Workforce* (not us), and the information is sufficient to give her an increased weekly benefit amount. Otherwise, she gets seven weeks of PUA at \$203 a week, or \$1,421. Since her regular benefit overpayment of \$1,854 cannot be waived that overpayment still stands. Claimant may want to use our PUA award to pay down that overpayment, if she has not already paid back that overpayment.

**DECISION:**

The administrative law judge's decision dated April 21, 2022 is **AFFIRMED ON THE ISSUE OF REGULAR BENEFIT DENIAL.**

**PUA BENEFITS ARE ALLOWED.** The Employment Appeal Board concludes that the Claimant is eligible for Pandemic Unemployment Assistance and these are allowed from July 26, 2020 until September 12, 2020.

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

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James M. Strohman

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Ashley R. Koopmans

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Myron R. Linn

RRA/fnv