

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

SCHAE M SHEPHERD
Claimant

APPEAL 20A-DUA-00793-S1-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 08/02/20
Claimant: Appellant (4/R)

PL 116-136 Section 2102 – Pandemic Unemployment Assistance
20 CFR 625 – Disaster Unemployment Assistance

STATEMENT OF THE CASE:

Schae Shepherd (claimant/appellant) filed an appeal from the Iowa Workforce Development decision dated October 20, 2020, reference 01, that determined claimant was not eligible for federal Pandemic Unemployment Assistance (PUA). After a hearing notice was mailed to the claimant's last-known address of record, a telephone hearing was held on December 3, 2020. The claimant participated personally. The administrative law judge took official notice of the administrative file.

ISSUE:

The issue is whether the claimant is eligible Pandemic Unemployment Assistance.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant's last employer was Target Distribution Center where she worked from August 19, 2019, through November 1, 2019, as a full-time manual operator until she was terminated.

The claimant filed for unemployment insurance benefits with an effective date of December 15, 2019. Her weekly benefit amount was determined to be \$367.00. The claimant received benefits from December 15, 2019, to the week ending May 2, 2020. This is a total of \$7,193.00 in state unemployment insurance benefits after the separation from employment. She received \$4,771.00 in Pandemic Emergency Unemployment Compensation through August 1, 2020. The claimant received \$3,596.00 in State Extended Benefits. She also received \$10,200.00 in Federal Pandemic Unemployment Compensation for the seventeen-week period ending July 25, 2020.

The claimant is not eligible for further regular compensation or extended benefits under state or federal law or Pandemic Emergency Unemployment Compensation (PEUC). She received her last benefits the week ending October 10, 2020. Her benefit year ends on December 13, 2020.

The father of the claimant's son lives in her household. He was sick and tested positive for COVID-19. The claimant was scheduled to start a new job at Tyson as a full-time worker on November 2, 2020, but she had to quarantine for two weeks due to the positive test in her home. She started work at Tyson on November 16, 2020, instead.

The claimant filed the application for PUA and provided self-certification that she was otherwise able to work and available for work but was unemployed, partially unemployed, or unable or unavailable to work because "A child or other person in the household for which you have 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 you to work". The claimant had a choice and she chose to have her children engage in on-line learning from home. Telework was not available.

REASONING AND CONCLUSIONS OF LAW:

For the reasons set forth below, the claimant is eligible for federal Pandemic Unemployment Assistance (PUA) for the two-week period ending November 14, 2020.

The CARES Act was established to provide 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), (c), (d), and (h) 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

(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).

(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.

(d) AMOUNT OF ASSISTANCE. —

(1) IN GENERAL. — The assistance authorized under subsection (b) for a week of unemployment, partial unemployment, or inability to work shall be— (A)(i) the weekly benefit amount authorized under the unemployment compensation law of the State where the covered individual was employed, except that the amount may not be less than the minimum weekly benefit amount described in section 625.6 of title 20, Code of Federal Regulations, or any successor thereto; and (ii) the amount of Federal Pandemic Unemployment Compensation under section 2104; and (B) in the case of an increase of the weekly benefit amount after the date of enactment of this Act, increased in an amount equal to such increase.

(2) CALCULATIONS OF AMOUNTS FOR CERTAIN COVERED INDIVIDUALS. — In the case of a covered individual who is self-employed, who lives in a territory described in subsection (c) or (d) of section 625.6 of title 20, Code of Federal Regulations, or who would not otherwise qualify for unemployment compensation under State law, the assistance authorized under subsection (b) for a week of unemployment *shall be calculated in accordance with section 625.6 of title 20, Code of Federal Regulations*, or any successor thereto, and shall be increased by the amount of Federal Pandemic Unemployment Compensation under section 2104.

(emphasis added).

(h) RELATIONSHIP BETWEEN PANDEMIC UNEMPLOYMENT ASSISTANCE AND DISASTER UNEMPLOYMENT ASSISTANCE. —

Except as otherwise provided in this section or to the extent there is a conflict between this section and section 625 of title 20, Code of Federal Regulations, such section 625 shall apply to this section as if— (1) the term “COVID–19 public health emergency” were substituted for the term “major disaster” each place it appears in such section 625; and (2) the term “pandemic” were substituted for the term “disaster” each place it appears in such section 625.

In this case, the claimant is not eligible for unemployment insurance benefits funded by the State of Iowa pursuant to Iowa Code § 96.5(2)(a), because she was discharged from work. The claimant therefore meets the requirements of PL 116-136 Section 2102(a)(3)(A)(i).

PL 116-136 Section 2102(a)(3)(A)(ii)(I) establishes that the claimant must provide self-certification that she is otherwise able to work and available for work within the meaning of applicable State law, except that she is unemployed, partially unemployed, or unable or unavailable to work **because of one of the enumerated reasons listed in (aa) through (II)**. In this case, the claimant is unemployed, partially unemployed, or unable or unavailable to work because the COVID-19 public health emergency reasons listed in (gg). The claimant was supposed to start her new job on November 2, 2020, but it was delayed two weeks because someone in her household tested positive for COVID-19. The unemployment for the two-week period ending November 14, 2020, was a direct result of the COVID 19 public health emergency itself.

The administrative law judge has reviewed the facts and applicable laws carefully and finds the claimant is a covered individual pursuant to PL 116-136 Section 2102 a(3)(A)(ii) as she is unemployed, partially unemployed, or unable or unavailable to work because of the enumerated reasons listed in (gg). The claimant’s unemployment for the two-week period ending

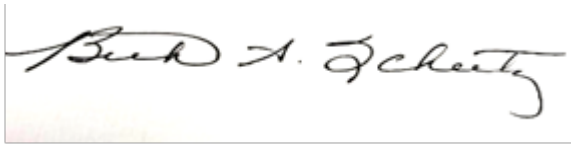
November 14, 2020, was a direct result of the COVID 19 public health emergency. Pandemic Unemployment Assistance benefits are allowed for the two-week period ending November 14, 2020.

The issue of determining the claimant's benefits for the two-week period ending November 14, 2020, is remanded to the Benefits Bureau of Iowa Workforce Development.

DECISION:

The Iowa Workforce Development decision dated October 20, 2020, reference 01, that determined claimant was not eligible for federal Pandemic Unemployment Assistance (PUA) is modified in favor of the claimant. Pandemic Unemployment Assistance benefits are allowed for the two-week period ending August 8, 2020, under PL 116-136 Section 2102 a(3)(A)(ii)(gg). Pandemic Unemployment Assistance benefits are allowed for the two-week period ending November 14, 2020.

The issue of determining the claimant's benefits for the two-week period ending November 14, 2020, is remanded to the Benefits Bureau of Iowa Workforce Development.



Beth A. Scheetz
Administrative Law Judge
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515) 478-3528

December 11, 2020
Decision Dated and Mailed

bas/scn