

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

BRITTNEY U ROLLE
Claimant

APPEAL 20A-DUA-00891-DB-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 01/26/20
Claimant: Appellant (4)**

PL 116-136 Section 2101 – Pandemic Unemployment Assistance
20 CFR § 625 – Disaster Unemployment Assistance
Iowa Code § 96.4(4) – Determination of Benefits

STATEMENT OF THE CASE:

On November 2, 2020, the claimant filed an appeal from the October 29, 2020 Assessment for Pandemic Unemployment Assistance (“PUA”) benefits decision that found she was not eligible for PUA benefits. Due notice was issued and a telephone hearing was held on December 17, 2020. Claimant participated personally. The administrative law judge took official notice of the claimant’s unemployment insurance benefits records.

ISSUE:

Is the claimant eligible for PUA benefits?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant filed her initial claim for regular unemployment insurance benefits funded through the State of Iowa with an effective date of January 26, 2020. Claimant exhausted her maximum benefit amount during the week-ending May 9, 2020. Claimant exhausted federal PEUC benefits during the week-ending August 8, 2020. Claimant exhausted State of Iowa Extended Benefits during the week-ending September 26, 2020. Claimant filed her application for PUA benefits.

Claimant last worked for Casey’s Marketing Company in January of 2020 and has been looking for work since her separation from employment. The claimant has minor children for which she provides primary caregiving responsibility for. Their schools were closed from November 11, 2020 through December 5, 2020 and the claimant was required to care for them during their online learning period. Attending school in person was not allowed by the district during this time.

Also, from November 28, 2020 through December 12, 2020, the claimant and her daughter were quarantining due to her being exposed to a person who was positive with COVID 19. A medical professional recommended that the claimant and her daughter quarantine during this

period of time. The claimant was able to and available for work if she would not have been required to provide care for her children while they were required to attend school virtually due to the COVID 19 public health emergency and if she was not required to quarantine by a medical professional.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes as follows:

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. However, the claimant must be a “covered individual” under the Act. PL 116-136 Section 2102(a), (b), (c), 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).

(emphasis added).

(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.

(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.

Disaster Unemployment Assistance was established for the payment of unemployment assistance to claimants whose unemployment is caused by a major disaster. 20 CFR § 625.1.

20 CFR § 625.4 provides in pertinent part:

Disaster Unemployment Assistance.

Eligibility requirements for Disaster Unemployment Assistance.

An individual shall be eligible to receive a payment of DUA with respect to a week of unemployment, in accordance with the provisions of the Act and this part if:

(g) The individual is able to work and available for work within the meaning of the applicable State law; *Provided*, that an individual shall be deemed to meet this requirement if any injury caused by the major disaster is the reason for inability to work or engage in self-employment; or, in the case of an unemployed self-employed individual, the individual performs service or activities which are solely for the purpose of enabling the individual to resume self-employment.

An unemployed worker is defined as an individual who was employed in or was to commence employment in the major disaster area at the time the major disaster began, and whose principal source of income and livelihood is dependent upon the individual’s employment for wages, and whose unemployment is caused by a major disaster as provided in § 625.5(a). 20 CFR § 625.2(s). The question in this case is whether the unemployment is a direct result of the COVID 19 public health emergency.

With regards to an unemployed worker, 20 CFR § 625.5(a) provides that the unemployment of an unemployed worker is caused by a major disaster if –

- (1) The individual has a “week of unemployment” as defined in § 625.2(w)(1) following the “date the major disaster began” as defined in § 625.2(e), and such unemployment is a **direct result of the major disaster**; or
- (2) The individual is unable to reach the place of employment as a direct result of the major disaster; or
- (3) The individual was to commence employment and does not have a job or is unable to reach the job as a direct result of the major disaster; or
- (4) 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 the major disaster; or
- (5) The individual cannot work because of an injury caused as a direct result of the major disaster.

Unemployment is a direct result of the major disaster as provided for in 20 CFR § 625.5(c), which provides:

For the purpose of paragraphs (a)(1) and (b)(1) of this section, a worker’s or self-employed individual’s unemployment is a **direct result of the major disaster where the unemployment is an immediate result of the major disaster itself**, and **not the result**

of a longer chain of events precipitated or exacerbated by the disaster. Such an individual's unemployment is a direct result of the major disaster if the unemployment resulted from:

- (1) The physical damage or destruction of the place of employment;
- (2) The physical inaccessibility of the place of employment in the major disaster area due to its closure by or at the request of the federal, state or local government, in immediate response to the disaster; or
- (3) Lack of work, or loss of revenues, provided that, prior to the disaster, the employer, or the business in the case of a self-employed individual, received at least a majority of its revenue or income from an entity in the major disaster area that was either damaged or destroyed in the disaster, or an entity in the major disaster area closed by the federal, state or local government in immediate response to the disaster.

(emphasis added).

The claimant is not eligible for unemployment insurance benefits funded by the State of Iowa as she has exhausted her maximum benefit amount; exhausted PEUC; and exhausted EB. Claimant therefore meets the requirements of PL 116-136 Section 2102(a)(3)(A)(i); however, she **must also** meet the requirements of PL 116-136 Section 2102(a)(3)(A)(ii) to qualify as a "covered individual" under the CARES Act.

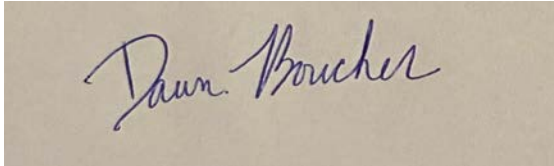
PL 116-136 Section 2102(a)(3)(A)(ii)(I) establishes that the claimant must provide self-certification that she is otherwise able to work and available for work within the meaning of applicable State law, except that she is unemployed, partially unemployed, or unable or unavailable to work because of one of the enumerated reasons listed in (aa) through (ll). These reasons can change from week to week.

Beginning November 11, 2020 through December 5, 2020, the claimant has been unable to and unavailable for work because her children, for which she has primary caregiving responsibility, were unable to attend school or another facility that was closed as a direct result of the COVID-19 public health emergency and such school or facility care is required for the claimant to work. Further, from November 28, 2020 through December 12, 2020, the claimant was instructed by a medical professional to quarantine due to COVID 19 concerns. As such, the claimant is eligible for PUA benefits from November 11, 2020 through December 12, 2020, provided she remains otherwise eligible.

PUA benefits are allowed effective the benefit week beginning November 8, 2020 through December 12, 2020, provided the claimant remains otherwise eligible, pursuant to PL 116-136 Section 2102(a)(3)(A)(ii)(dd) and (ff).

DECISION:

The October 29, 2020 Assessment for Pandemic Unemployment Assistance Benefits decision denying benefits is modified in favor of the appellant. Pandemic Unemployment Assistance benefits are allowed effective November 8, 2020 through December 12, 2020 under PL 116-136 Section 2102(a)(3)(A)(ii)(dd) and (ff), and provided the claimant remains otherwise eligible.

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Dawn Boucher
Administrative Law Judge

December 29, 2020
Decision Dated and Mailed

db/scn