

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

QUANTAVIUS CORNELIUS

Claimant

APPEAL NO. 21A-DUA-00700-JT-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

**OC: 03/15/20
Claimant: Appellant (1)**

PL 116-136 Section 2102 – Pandemic Unemployment Assistance

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the January 11, 2021 Assessment for PUA Eligibility decision that denied Pandemic Unemployment Assistance (PUA) benefits, based on the deputy's conclusion that the claimant did not meet the eligibility requirements. After due notice was issued, a hearing was held on March 19, 2021. Claimant participated. Exhibit A received into the hearing record.

The administrative law judge took official notice of Agency administrative records pertaining to the claimant's claim for benefits, including but not limited to DBRO, KCCO, KPYX, WAGE-A, NMRO, KLOG, the monetary record, the application for PUA benefits, the Assessment for PUA Eligibility, the deputy's notes regarding the denial of PUA, and the various notices mailed to the claimant.

The administrative law judge left the hearing record open until March 24, 2021 for the limited purpose of allowing the claimant the opportunity to submit (1) a complete work search history for November 1, 2020 through December 26, 2020, (2) documentation of employment during the same period, (3) medical documentation regarding the claimant's foot ailment, surgery, bed rest and work restrictions, (4) medical documentation regarding the claimant's COVID-19 exposure, testing, test result, and guidance from a medical provider, and (5) any additional written statements and/or documentation the claimant wished to provide to fill the gaps in the evidence presented at the hearing. The claimant did not submit any of the requested documentation.

ISSUE:

Is the claimant eligible for PUA?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant established an original claim for benefits that was effective March 15, 2020. The applicable base period in connection with said claim consisted of the fourth quarter of 2018 and the first, second and third quarters of 2019. The claimant had Kentucky wages for all four quarters. The claimant also had wages in the fourth quarter of 2018 through Express Services,

Inc. and EJC Management, L.L.C. Based on the base period wages, Iowa Workforce Development set the claimant's weekly benefit amount for regular benefits at \$339.00.

At the time the claimant established his original claim for benefits, he had most recently been employed by Express Services in a full-time assignment at Cody's Insulation in Davenport. The Cody's Insulation business owner notified the claimant on or about March 3, 2020, that the assignment was ended. Termination of the assignment was not due to COVID-19.

The claimant exhausted non-PUA benefits effective October 31, 2020. The claimant received regular benefits through June 20, 2020, at which time he exhausted regular benefits for the claim year. The claimant then received 13 weeks of Pandemic Emergency Unemployment Compensation (PEUC) through the week that ended September 19, 2020, at which time he exhausted first round PEUC benefits. The claimant then received State Extended Benefits (EB) through October 31, 2020, at which time the EB program expired.

The claimant continued to make weekly claims for the weeks between November 1, 2020 and December 26, 2020, but received no benefits for that period.

The claimant continued to make weekly claims for the period beginning December 27, 2020. By the time of the appeal hearing, the claimant had made weekly claims for each week between December 27, 2020 and March 13, 2021. The claimant received additional PEUC benefits for the period of December 27, 2020 through March 13, 2021, at which time the claimant's benefit year expired.

The claimant advises that he had surgery on his foot sometime between August and October 2020, and that he was on bed rest in October and/or November.

The claimant asserts that he at some point reported for work at Dyersville Die Cast, but that the company sent him home in light of medical restrictions that limited his ability to stand and that indicated he was to take 10 to 15-minute breaks between periods of standing. The claimant advises that he had a similar experience at another company. These experiences followed the claimant's period of bed rest.

The claimant asserts that he was exposed to COVID-19 toward the end of November, while he was staying a few nights with his godmother's family. The claimant advises that two members of his godmother's family contracted COVID-19 and that one had to be rushed to the hospital due to breathing difficulty. The claimant advises that he did not contract COVID-19, but was tested and tested negative. The claimant has provided no documentation to substantiate any of these assertions.

The claimant asserts that he actively searched for new employment during the period beginning November 1, 2020. The claimant asserts that he made applications over the phone and in person.

Regarding the week that ended November 7, 2020, the claimant asserts he contacted Express Services and Sedona staffing. The claimant asserts that he applied at Dyersville Die Cast, at McDonald's and at Hormel.

Regarding the week that ended November 14, 2020, the claimant asserts he applied at Tyson's, Windows & Doors, and at Burger King. The claimant asserts he also had Express Services and Sedona Staffing seeking work for him.

On December 15, 2020, the claimant submitted an application for Pandemic Unemployment Assistance (PUA). The claimant stated: "I was working a construction job through an employment agency during the start of the pandemic and was let go (assignment ended) due to COVID-19 restrictions." The claimant referenced Express Services as the employer and Cody's Insulation as the client business. The claimant provided a February 20, 2020 start date and a March 5, 2020 end date for the assignment. The claimant indicated he had worked full-time, 50 hours per week, in the assignment and that the work involved installing insulation in homes and businesses. The claimant attached photos of two Express Services paystubs with the relevant dates cropped out of the photos. The claimant made no mention of the subsequent employment, his foot issues, or of purported COVID-19 exposure in his PUA application. The claimant self-certified that he was able to work and available for work but for one of the COVID-19 bases set forth at section 2102 of the CARES Act, though there clearly was a significant period when the claimant was able to work due to his foot ailment.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.4(4)a provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

4. a. The individual has been paid wages for insured work during the individual's base period in an amount at least one and one-quarter times the wages paid to the individual during that quarter of the individual's base period in which the individual's wages were highest; provided that the individual has been paid wages for insured work totaling at least three and five-tenths percent of the statewide average annual wage for insured work, computed for the preceding calendar year if the individual's benefit year begins on or after the first full week in July and computed for the second preceding calendar year if the individual's benefit year begins before the first full week in July, in that calendar quarter in the individual's base period in which the individual's wages were highest, and the individual has been paid wages for insured work totaling at least one-half of the amount of wages required under this paragraph in the calendar quarter of the base period in which the individual's wages were highest, in a calendar quarter in the individual's base period other than the calendar quarter in which the individual's wages were highest. The calendar quarter wage requirements shall be rounded to the nearest multiple of ten dollars.

The claimant was monetarily eligible for regular unemployment insurance benefits funded by the State of Iowa, but exhausted those benefits effective June 20, 2020.

Public Law 116-136, the CARES Act, at Section 2102, provides for unemployment benefit assistance to any covered individual for any weeks beginning on or after January 27, 2020 and ending on or before December 31, 2020, during which the individual is unemployed, partially unemployed, or unable to work due to COVID-19. Section 2102 provides Pandemic Unemployment Assistance 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) and (c), 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

(II) 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 (I); 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)(I).

(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.

It is the duty of the administrative law judge as the trier of fact in this case, to determine the credibility of witnesses, weigh the evidence and decide the facts in issue. *Arndt v. City of LeClaire*, 728 N.W.2d 389, 394-395 (Iowa 2007). The administrative law judge may believe all, part or none of any witness's testimony. *State v. Holtz*, 548 N.W.2d 162, 163 (Iowa Ct. App. 1996). In assessing the credibility of witnesses, the administrative law judge should consider the evidence using his or her own observations, common sense and experience. *Id.* In determining the facts, and deciding what testimony to believe, the fact finder may consider the following factors: whether the testimony is reasonable and consistent with other believable evidence; whether a witness has made inconsistent statements; the witness's appearance, conduct, age, intelligence, memory and knowledge of the facts; and the witness's interest in the trial, their motive, candor, bias and prejudice. *Id.*

The claimant is not eligible for PUA benefits. The claimant cannot be considered for PUA benefits for the period before November 1, 2020 because he did not exhaust non-PUA benefits until October 31, 2020. The claimant cannot be considered for PUA benefits for the period beginning December 27, 2020, because he was deemed eligible for and received PEUC benefits for that period. The claimant is not eligible for PUA benefits for the period of November 1, 2020 through December 26, 2020 because the circumstances of his unemployment do not fit within the eligibility categories set forth at section 2102(a)(3)(A)(ii)(I) of the CARES act. The claimant presented insufficient evidence to establish that his Express Services employment came an end directly due to COVID-19. The claimant presented insufficient evidence to establish that he was indeed exposed to COVID-19 and/or that he had to quarantine due to COVID-19. The claimant was physically unable to work due to a non-COVID-19 related health issue for a significant portion of the period for which he desires PUA benefits. The claimant was neither a reliable nor a credible witness. The claimant's testimony

included many internally contradictory assertions. The claimant made many unsubstantiated assertions and then failed to substantiate the assertions when given the opportunity to submit relevant documentation.

DECISION:

The January 11, 2021 Assessment for PUA Eligibility decision that denied Pandemic Unemployment Assistance (PUA) benefits is affirmed. The claimant is not eligible for PUA benefits.

A handwritten signature in cursive script that reads "James E. Timberland". The signature is written in dark ink on a light gray rectangular background.

James E. Timberland
Administrative Law Judge

June 30, 2021
Decision Dated and Mailed

jet/kmj