

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

DANIEL KENNEDY
Claimant

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

APPEAL 20A-DUA-00239-JE-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 06/07/20
Claimant: Appellant (2)

PL 116-136, Sec. 2012 – Federal Pandemic Unemployment Assistance

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the August 15, 2020, reference 01, Iowa Workforce Development decision that determined he 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 October 5, 2020. The claimant participated in the hearing with Attorney Todd Locher.

The administrative law judge took official notice of the administrative file.

ISSUE:

The issue is whether the claimant is eligible for 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 filed the application for PUA on May 11, 2020. The last day the claimant worked was in February 2020. The claimant was employed at that time by Blue Sky Solar as an independent contractor performing sales and some electrical installations. In this position, the claimant goes door to door at farms mostly in Illinois, which has banned door to door sales due to COVID-19. The claimant also had part-time employment at Tristate Outdoors and was laid off from that position April 1, 2020, but has started working seven hours per week again in that job.

The claimant did provide self-certification that he was otherwise able to work and available for work but was unemployed, partially unemployed, or unable or unavailable to work because of COVID-19. Telework was not available.

The claimant is not monetarily eligible for regular compensation or extended benefits under state or federal law or Pandemic Emergency Unemployment Compensation (PEUC).

REASONING AND CONCLUSIONS OF LAW:

For the reasons set forth below, the claimant is eligible for federal Pandemic Unemployment Assistance (PUA).

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

(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.

(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.

The administrative law judge finds the claimant 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 and is unable or unavailable to work because of COVID-19.

Specifically, the claimant was unable or unavailable to work because his place of employment is effectively closed as a direct result of the COVID– 19 public health emergency as he cannot work door to door in Illinois due to an order of the governor. This unemployment began in March 2020 and continues at this time. The claimant is otherwise able to work and available for work within the meaning of applicable State law. The claimant is not eligible for regular compensation or extended benefits under State or Federal law or pandemic emergency unemployment compensation. Telework with pay was not available. The claimant was not receiving paid sick leave or other paid leave benefits.

The administrative law judge finds the claimant is self-employed individual who applied for PUA because his work had decreased. For a claimant to be eligible for PUA, the law requires that the cause of the unemployment or lack of work be related to Covid-19. The claimant provided evidence at the hearing that his lack of work was due to the Covid-19 public health emergency. Pandemic Unemployment Assistance is allowed.

DECISION:

The Iowa Workforce Development decision dated August 15, 2020, reference 01, that determined the claimant was not eligible for federal Pandemic Unemployment Assistance (PUA) is reversed.



Julie Elder
Administrative Law Judge
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November 6, 2020
Decision Dated and Mailed

je/mh