

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

EDWARD ZAJAC
Claimant

APPEAL 20A-DUA-00249-CL-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

OC: 04/05/20
Claimant: Appellant (1)

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

STATEMENT OF THE CASE:

On August 19, 2020, the claimant filed a timely appeal from the Iowa Workforce Development decision dated August 13, 2020 that determined claimant was not eligible for federal Pandemic Unemployment Assistance (PUA) benefits. A telephone hearing was held on October 7, 2020. The claimant was properly notified of the hearing and participated personally.

ISSUE:

Is the claimant eligible for Pandemic Unemployment Assistance?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant is a cardiologist. Claimant works 13.33 hours per week for Unity Point/Northwest Iowa Health Corporation as a form W-2 employee and is paid \$254.00 per hour for his work.

Claimant spends his other working hours as an independent practitioner. In that role, claimant provides consulting services and training to hospitals and other practitioners. Claimant also provides temporary coverage for practices needing assistance. Claimant receives a 1099 tax form for this work.

In March 2020, the United States declared a public health emergency due to the COVID 19 pandemic. Claimant's employment with Unity Point has not changed and claimant has been found to be ineligible for regular unemployment insurance benefits on that basis.

Claimant's work as an independent practitioner has been cancelled since the pandemic began. Hospitals are not allowing outsiders into the building and are not seeking consulting and training services at this time. Other physicians are not traveling outside of the country and education/training sessions have been cancelled. Claimant has lost a significant amount of income as a result.

REASONING AND CONCLUSIONS OF LAW:

The Coronavirus Aid, Relief, and Economic Security Act, Public Law 116-136, Sec. 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.

The issue to be determined here is whether claimant is a “covered individual” who is eligible to receive benefits within the meaning of applicable law.

Section 2102 of the CARES Act describes a covered individual as follows:

(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).

The United States Code authorizes the Secretary of the United States Department of Labor to enter into agreements with states to administer Pandemic Unemployment Assistance (PUA) benefits under the CARES Act. PL 116-136, Sec. 2102(f). The United States Department of Labor has issued operating instructions to states in implementing section 2102 of the CARES Act. Iowa Code § 96.11 mandates that Iowa Workforce Development “shall cooperate with the United States department of labor to the fullest extent consistent with the provisions of this chapter. . .” When implementing section 2102, the operating instructions direct states to first consult section 2102 of the CARES Act and then the operating instructions. When both are silent, states should refer to section 625 of title 20, Code of Federal Regulations. When consulting the regulations, the term “COVID-19 public health emergency” is to be substituted for the term “major disaster” and the term “pandemic is to be substituted for the term “disaster.”

Title 20 of the Code of Federal Regulations, section 626.6(f)1 provides:

(f)(1) The weekly amount of DUA payable to an unemployed worker or unemployed self-employed individual for a week of partial or part-total unemployment shall be the weekly amount determined under paragraph (a), (b), (c) or (d) of this section, as the case may be, reduced (but not below zero) by the amount of wages that the individual earned in that week as determined by applying to such wages the earnings allowance for partial or part-total employment prescribed by the applicable State law.

Iowa Admin. Code r. 871-24.18 provides:

An individual who is partially unemployed may earn weekly a sum equal to the individual's weekly benefit amount plus \$15 before being disqualified for excessive earnings. If such individual earns less than the individual's weekly benefit amount plus \$15, the formula for wage deduction shall be a sum equal to the individual's weekly benefit amount less that part of wages, payable to the individual with respect to that week and rounded to the lower multiple of one dollar, in excess of one-fourth of the individual's weekly benefit amount.

The maximum weekly benefit amount a claimant in Iowa can receive for PUA benefits is \$591.00. As explained in the Unemployment Insurance Benefits Handbook and in the rule above, under Iowa law, claimants are required to report gross earnings each week. If a claimant earns \$15 or more above the weekly benefit amount, it is considered "excessive earnings" and the claimant will not be eligible for an unemployment insurance benefit payment.

Claimant's weekly earnings with Unity Point are far above the highest weekly benefit amount he could possibly receive in PUA benefits. Therefore, even though claimant is partially unemployed, he is not eligible for PUA benefits due to excessive earnings.

DECISION:

The Iowa Workforce Development decision dated August 13, 2020 that determined claimant was not eligible for federal Pandemic Unemployment Assistance (PUA) benefits is affirmed.



Christine A. Louis
Administrative Law Judge
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October 16, 2020
Decision Dated and Mailed

cal/scn