

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**MICHELLE L TAYLOR WOODFORK**  
Claimant

**APPEAL 21A-DUA-00695-S2-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE DEVELOPMENT  
DEPARTMENT**

**OC: 10/18/20**  
**Claimant: Appellant (2)**

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PL 116-136, Sec. 2102 – Federal Pandemic Unemployment Assistance

**STATEMENT OF THE CASE:**

On January 21, 2021, the claimant filed a timely appeal from the Iowa Workforce Development decision dated January 13, 2021 that determined claimant was not eligible for federal Pandemic Unemployment Assistance (PUA) benefits. A telephone hearing was held on March 27, 2021. The claimant was properly notified of the hearing and participated personally. The administrative law judge took official notice of the administrative record.

**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 began operating an in-home daycare. At the beginning of March 2020, claimant cared for twelve children. When the pandemic arrived, three families pulled their children from the daycare as at least one of the parents in the families no longer had work so daycare was no longer needed. More families continued to pull their children. By the end of June 2020, claimant only cared for the children of two families. One family contracted COVID-19, and the other family stopped attending the daycare as a result. Claimant has sought to obtain business again, by posting flyers, handing out cards, offering deep discounts, but she has been unable to draw in any new business because of the pandemic.

Claimant is not eligible for regular compensation or extended benefits under state or federal law or Pandemic Emergency Unemployment Compensation (PEUC). Claimant filed the application for PUA on January 13, 2021.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons set forth below, the Iowa Workforce Development decision dated January 13, 2021 that determined claimant was not eligible for federal Pandemic Unemployment Assistance (PUA) is reversed.

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. That period was subsequently extended through the week ending March 13, 2021 and, in some cases, through the week ending April 10, 2021. See Consolidated Appropriations Act of 2021. The issue to be determined here is whether claimant is a “covered individual” within the meaning of applicable law.

(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—

(l) 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).

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.”

In the Department of Labor's Unemployment Insurance Program Letter No. 16-20, Change 2, it states

b. Clarification on item (kk) of acceptable COVID-19 related reasons. Section 2102(a)(3)(A)(ii)(l)(kk) of the CARES Act provides for the Secretary of Labor to

establish any additional criteria under which an individual may self-certify eligibility for PUA benefits. Section C.1.k. of Attachment I to UIPL No. 16-20 provides for coverage of an independent contractor whose ability to continue performing his or her customary work activities is severely limited because of the COVID-19 public health emergency. The example provided includes a driver of a ride sharing service who has been forced to suspend operations because of COVID-19. Question 42 of Attachment I to UIPL No. 16- 20, Change 1, explains that an independent contractor who experiences a “significant diminution of work as a result of COVID-19” may be eligible for PUA.

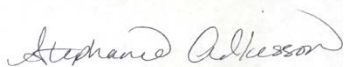
With these examples in UIPL Nos. 16-20 and 16-20, Change 1, the Secretary provides coverage under item (kk) to those self-employed individuals who experienced a significant diminution of services because of the COVID-19 public health emergency, even absent a suspension of services.

The administrative law judge finds claimant is self-employed; does not otherwise qualify for regular unemployment or extended benefits under State or Federal law or pandemic emergency unemployment compensation at this time; and is otherwise able to work and available for work within the meaning of applicable but is unable or unavailable to work because COVID-19. Specifically, she experienced a significant diminution of services in her daycare business because of the COVID-19 pandemic health emergency and is therefore eligible for PUA benefits under subsection (kk) effective December 6, 2020, provided claimant is otherwise eligible.

Claimant must make weekly continued claims in order to receive benefits.

**DECISION:**

The Iowa Workforce Development decision dated January 13, 2021 that determined claimant was not eligible for federal Pandemic Unemployment Assistance (PUA) benefits is reversed. PUA benefits are allowed effective December 6, 2020, provided claimant is otherwise eligible.



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Stephanie Adkisson  
Administrative Law Judge  
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April 1, 2021  
Decision Dated and Mailed

sa/scn