

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

MELISSA GUFFEY
Claimant

APPEAL 21A-DUA-01749-SN-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 05/23/21
Claimant: Appellant (1R)**

PL 116-136, Sec. 2104 – Pandemic Unemployment Assistance benefits

STATEMENT OF THE CASE:

On August 2, 2021, Melissa Guffey (claimant/appellant) an Iowa Workforce Development Department determination¹ on July 27, 2021 to deny PUA benefits effective April 9, 2021 because she had not provided sufficient information. A hearing was scheduled for September 15, 2021. The claimant participated. The administrative law judge took official notice of the administrative records.

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:

The claimant filed the application for PUA on April 24, 2020. On the claimant's application for PUA she provided information about herself. The claimant wrote the reason for being unemployed, "I have been diagnosed with Covid-19 or am experiencing symptoms of Covid-19 and am seeking a medical diagnosis." She did not provide any information in the explanation line of her application. On this application, the claimant identified herself as an unemployed self-employed individual.

The administrative record KLOG shows the claimant gave a new self-certification criterion for PUA eligibility on April 9, 2020. It does not specify what new self-certification criterion was changed to.

The claimant runs a business called Hey Girl Cleaning out of her personal residence. She does not advertise her services. The claimant testified she has filed forms creating this business entity with the Iowa Secretary of State. No such documentation exists with the Iowa Secretary of State.

Prior to the Covid19 pandemic, the claimant had 28 residential and commercial clients who would use her services. As a result, the claimant's income fluctuated between \$600.00 and \$800.00 per week from business received from these clients. After the Covid19 pandemic, the

claimant has about five to six clients who have remained. This resulted in an income range from \$0 to \$400.00.

Despite what was listed on her application, the claimant denied that she had ever been diagnosed with Covid19. She explained that her son began experiencing symptoms consistent with Covid19, when she initially filed her application for PUA on April 24, 2020. She said this required her to quarantine.

In November 2020, the claimant's son tested positive for Covid19. The claimant had to quarantine for two weeks due to her son's positive diagnosis.

The last assignment the claimant had occurred on January 2021. The claimant attributes this to these clients being too afraid of her being in their homes or businesses after Covid19. The claimant did not allege she had specific information from any of these clients indicating that was the reason.

On February 1, 2021, the claimant had a major stomach surgery. The claimant could not perform her self-employment work during this period because she was subject to lifting restrictions. The claimant was not released to return to work without restriction until May 24, 2021.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant is not eligible for benefits.

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.

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. On March 11, 2021, the President signed into law another extension for PUA benefits until September 4, 2021. Governor Kim Reynolds has limited eligibility for PUA benefits to weeks occurring before June 12, 2021.

The issue to be determined here is whether claimant is a "covered individual" within the meaning of applicable law.

The issue to be determined here is whether claimant is a "covered individual" within the meaning of applicable law. Section 2102(a)(3) defines individuals who are eligible for PUA benefits.

(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).

Iowa Code section 96.4(3) provides:

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

3. The individual is able to work, is available for work, and is earnestly and actively seeking work. This subsection is waived if the individual is deemed partially unemployed, while employed at the individual's regular job, as defined in section 96.19, subsection 38, paragraph "b", unnumbered paragraph (1), or temporarily unemployed as defined in section 96.19, subsection 38, paragraph "c". The work search requirements of this subsection and the disqualification requirement for failure to apply for, or to accept suitable work of section 96.5, subsection 3 are waived if the individual is not disqualified for benefits under section 96.5, subsection 1, paragraph "h".

Iowa Admin. Code r. 871-24.23 provides:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(35) Where the claimant is not able to work and is under the care of a medical practitioner and has not been released as being able to work.

As stated above, the claimant must show she is a "covered individual" within the meaning of applicable law.

The first threshold the claimant needs to clear is to show she satisfies Section 2102(a)(3)(i) by showing she is ineligible for regular unemployment, extended benefits and PEUC benefits. The claimant has insufficient wages in her monetary record to be eligible for regular unemployment. The claimant can meet this threshold of her PUA claim.

The second threshold the claimant needs to clear is to show she can self-certify under one of the following self-certification Covid19 reasons listed in Section 2102(a)(3)(i)(ii)(I)(aa)-(ll).

The claimant stated on her application for PUA that she could self-certify under Section 2102(a)(3)(A)(i)(ii)(I)(kk) provides that, "I have been diagnosed with Covid-19 or am experiencing symptoms of Covid-19 and am seeking a medical diagnosis." The claimant denied during the hearing that she was ever diagnosed or experienced symptoms of Covid19. Rather the claimant is self-certifying under, "Self-employed individuals (including independent contractors and gig workers) who experienced a significant diminution of their customary or usual services because of the Covid19 public health emergency, even absent a suspension of services, may self-certify under item (kk)." Unemployment Insurance Program Letter No. 16-20, Change 5, Department of Labor, (February 5, 2021) at pg. 3.

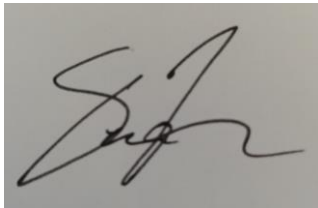
The claimant cannot self-certify under this provision or any provision from February 1, 2021 to May 24, 2021 because she was not able and available for work for a reason wholly independent from Covid19. See Iowa Admin. Code r. 871-24.23 (35). As for the weeks occurring after this date, there is not sufficient evidence on the record to establish the claimant's diminution in services was due to Covid19. The claimant attributes the lack of assignments to the fear of being infected with Covid19, but she does not offer any particularized statements from a client supporting that notion. The vaccine was also widely available at this time. The claimant had been unable to perform her services for months. In this context, the claimant's clientele could have very easily moved on to other services for a variety of reasons unrelated to Covid19. Benefits are denied.

DECISION:

The Iowa Workforce Development Department determination on July 27, 2021 to deny PUA benefits effective April 9, 2021 because she had not provided sufficient information.

REMAND:

The administrative law judge is remanding to the Benefits Bureau the issue regarding the claimant's PUA eligibility in the previous claim year as delineated in the findings of fact.



Sean M. Nelson
Administrative Law Judge
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September 29, 2021
Decision Dated and Mailed

smn/mh