

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

GRANT G NELSON
Claimant

APPEAL NO. 21A-DUA-00431-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

OC: 01/05/20
Claimant: Appellant (1)

PL 116-136 Section 2102 – Pandemic Unemployment Assistance

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the December 19, 2020 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 4, 2021. Claimant participated. Exhibit A was 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 DBRO, KCCO, KPYX, WAGE-A, NMRO, the monetary record, the application for PUA benefits, the Assessment for PUA Eligibility, and the deputy's notes regarding the denial of PUA.

The administrative law judge left the hearing record open for the limited purpose of allowing the claimant the opportunity to submit documentation in support of the claimant's appeal of the PUA denial decision. The claimant submitted an August 3, 2020 school district email, a Sioux County Community Health Partners COVID-19 Criteria for Staff/Student Exclusion flow chart, and a work search log for the period of October 27, 2020 through January 9, 2021. These materials were received into evidence as Exhibits B, C and D respectively.

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 January 5, 2020. The applicable base period in connection with said claim consisted of fourth quarter of 2018 and the first, second and third quarters of 2019. The claimant's base period wages plus his wages for the fourth quarter of 2019 were as follows:

EMPLOYER	2018/4	2019/1	2019/2	2019/3	2019/4
VOGEL PAINT & WAX CO INC			593	8615	7732

Iowa Workforce Development deemed the claimant monetarily eligible for benefits and set a weekly benefit amount for state benefits of \$410.00 and a maximum benefit amount of \$5,647.05.

As of the appeal hearing date, the claimant had made consecutively weekly claims for each week between January 5, 2020 and February 27, 2020.

The claimant received regular state unemployment benefits for each week between January 5, 2020 through April 18, 2020, at which time he exhausted regular benefits.

The claimant then received Pandemic Emergency Unemployment Compensation (PEUC) benefits for the period of April 19, 2020 through the benefit week that ended July 25, 2020, at which time he exhausted PEUC benefits.

The claimant then received State Extended Benefits (EB) for the period of July 26, 2020 through October 31, 2020, at which time the EB program ended. The claimant had at that time exhausted available state and federal non-PUA benefits.

Though the claimant continued to make weekly claims, and continued to make and report two job contacts per week, IWD did not pay any benefits to the claimant for the weeks between November 1, 2020 through the January 2, 2021 benefit year end date.

After the claimant's 2020 benefit expired, the claimant established a new claim year that was effective January 3, 2021. The claimant then commenced receiving regular benefits in connection with the new claim year. At the time of the appeal hearing, the claimant had not exhausted regular benefits in connection with the new claim year.

The claimant's initial period of employment with Diamond Vogel ended on December 16, 2019. The claimant returned to the employment for a brief period during the first quarter of 2020. That additional period of employment began on February 26, 2020 and ended on March 10, 2020. The claimant's March 2020 separation was not due to COVID-19.

The claimant was next employed by the United States Census Bureau as a field supervisor. The claimant began the Census employment on July 14, 2020 and was laid off effective November 2, 2020. The layoff was not due to COVID-19.

At the time of the appeal hearing, the claimant was not currently employed, but was about to start new part-time employment with Advance Auto Parts.

In 2020, the claimant's household included his wife, his teenage son, and his 11-year-old daughter. On Wednesday, October 28, 2020, the claimant's daughter was exposed to COVID-19 and began a two-week quarantine. The claimant's daughter had been attending in-person school prior to the exposure. The claimant's daughter returned to school on Thursday, November 12, 2020. On November 16, 2020, the claimant's daughter had a headache and threw up. The claimant did not have his daughter tested to see whether her illness was COVID-19. The claimant's daughter returned to school on Monday, November 30, 2020, following the Thanksgiving break. On December 4, 2020, the claimant's daughter had a fever. The claimant had his daughter tested for COVID-19. The test was negative. The claimant's daughter returned to work on December 9, 2020 and continued to attend school through Friday, December 18, 2020, at which time the winter break began.

In 2020, the claimant had health risk factors that placed him at increased risk in connection with the COVID-19 pandemic. The claimant is a cigarette smoker, has asthma, is overweight and is pre-diabetic. Though the claimant advises his doctor advised him to quarantine in October and November 2020, the claimant concedes he lacks documentation to support the assertion. The claimant did not contract COVID-19.

The claimant had no job offers that were rescinded or rejected due to COVID-19 and not start dates that had to be delayed due to COVID-19.

The claimant advises that his son suffers from depression, which creates a concern about leaving the child alone. These circumstances have made it necessary for the claimant to pursue employment that offers flexibility to accommodate his need to need to attend to his son's needs.

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 regular benefits effective April 18, 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 2012 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.

The claimant is not eligible for PUA benefits for the period prior to November 1, 2020, because the claimant did not exhaust all state and non-PUA federal benefits until October 31, 2020. In addition, the claimant was not eligible for PUA benefits for the period beginning January 3, 2021, when he commenced receiving regular benefits in connection with the new claim year. The remaining period to be considered began on November 1, 2020 and ended on January 2, 2021. The claimant is not eligible for PUA benefits for that period because his circumstances do not fit any of the eligibility categories set forth at section 2102(a)(30(A)(ii)(I) of the Cares Act. The claimant's daughter's school was not closed due to COVID-19. No one in the claimant's household was diagnosed with COVID-19 at the time. The claimant presented insufficient evidence to establish that a doctor had in fact advised him to quarantine during that time. The claimant did not separate from an employment due to COVID-19 and did not have any job offers rescinded or start dates deferred due to COVID-19.

DECISION:

The December 19, 2020 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 black ink on a light gray rectangular background.

James E. Timberland
Administrative Law Judge

June 14, 2021
Decision Dated and Mailed

jet/scn