

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

LORI M MCWILLIAMS
Claimant

APPEAL 21A-DUA-01012-AD-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 03/22/20
Claimant: Appellant (1)

PL 116-136, Sec. 2102 – Federal Pandemic Unemployment Assistance
20 CFR 625 – Disaster Unemployment Assistance

STATEMENT OF THE CASE:

On February 9, 2021, Lori McWilliams (claimant/appellant) filed a timely appeal from the Iowa Workforce Development decision dated January 30, 2021 that determined claimant was not eligible for federal Pandemic Unemployment Assistance (PUA).

A telephone hearing was held on April 19, 2021. The parties were properly notified of the hearing. The claimant participated personally. Claimant's exhibits 1-3 were admitted. Official notice was taken of the administrative record.

ISSUE:

- I. 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 filed a claim for regular UI benefits with an effective date of March 22, 2020. That claim was denied in a decision dated May 4, 2020. Claimant appealed that decision to an Administrative Law Judge and it was affirmed on June 19, 2020. Claimant appealed that decision further to the Employment Appeal Board (EAB), which again affirmed it in a decision dated July 27, 2020.

Claimant filed the application for PUA on January 12, 2021. Claimant filed the application based on her expecting to start a job around March 2020 that did not begin due to the pandemic. Claimant did not file the application for PUA prior to that time because she was not aware that if she did not file prior to a certain date then she could may not be found retroactively eligible for PUA. Claimant contends the department should have more specifically advised her as to any potential PUA application deadlines. Both the ALJ and the EAB decision advised claimant that she may be eligible for PUA and that she must apply to determine her eligibility.

Claimant began working for another employer on December 1, 2020. Claimant is still in that position to date.

REASONING AND CONCLUSIONS OF LAW:

For the reasons set forth below, the Iowa Workforce Development decision dated January 30, 2021 that determined claimant was not eligible for federal Pandemic Unemployment Assistance (PUA) is AFFIRMED.

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 September 4, 2021. See American Rescue Plan Act of 2021.

Claims filed on or before December 27, 2020 can be backdated to January 27, 2020; claims after that time can generally only be backdated to December 1, 2020. However, if an individual filed a regular UI claim on or before December 27, 2020, and the state later determined that the individual is not eligible for regular UI, the state should use the date the claimant filed the regular UI claim as the date of filing for the PUA claim. See Unemployment Insurance Program Letter No. 16-20, Change 4.

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).

Claimant's claim cannot be backdated beyond December 1, 2020. This is because claimant did not file the application for PUA until January 12, 2021. Claimant's claim cannot be backdated further based on the timing of the denial of regular UI, as she was aware of that denial for nearly

six months prior to applying for PUA. Claimant was employed elsewhere as of December 1, 2020 and continuing to present and so was not unemployed, partially unemployed, or unable or unavailable to work because of COVID-19 and therefore not eligible for PUA as of the date of her claim.

The administrative law judge is sympathetic to claimant's situation. However, claimant's contention that the department should have more specifically advised her as to any potential PUA application deadlines is unavailing. Both the ALJ and the EAB decision advised claimant that she may be eligible for PUA and that she must apply to determine her eligibility. Claimant's decision to delay for approximately six months before applying for PUA was her decision alone.

DECISION:

The Iowa Workforce Development decision dated January 30, 2021 that determined claimant was not eligible for federal Pandemic Unemployment Assistance (PUA) is AFFIRMED. Claimant was not eligible for PUA as of the date of her claim, as she was employed elsewhere at that time and continues to be so employed.



Andrew B. Duffelmeyer
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April 24, 2021
Decision Dated and Mailed

abd/ol