

**BEFORE THE ALASKA OFFICE OF ADMINISTRATIVE HEARINGS ON REFERRAL
BY THE DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT**

In the Matter of)
)
ASHLEY YUNKER-HAMSHER) OAH No. 21-0167-PUA
) Agency No. P20 272
_____)

APPEAL DECISION

Docket Number: P20 272

Hearing Date: March 10, 2021

CLAIMANT APPEARANCES:

DETS APPEARANCES:

Ashley Yunker-Hamsher

None

CASE HISTORY

The claimant, Ashley Yunker-Hamsher, submitted an appeal of an October 6, 2020 determination which denied Pandemic Unemployment Assistance (PUA) benefits under the CARES Act, Public Law 116-136. The Department of Labor and Workforce Development referred the appeal to the Office of Administrative Hearings on January 29, 2021. Under the agreed terms of referral, an administrative law judge (ALJ) hears and decides the appeal under procedures specific to PUA appeals. AS 44.64.060 procedures do not apply.

The matter was heard in a recorded hearing on March 10, 2021. Ms. Yunker-Hamsher testified under oath. At its own election, the Division of Employment and Training Services (DETS) provided only written materials for the hearing, and was not a live participant.

The issue before the ALJ is whether the claimant meets the eligibility requirements of the Act.

FINDINGS OF FACT

Ms. Yunker-Hamsher established a claim for Pandemic Unemployment Assistance benefits effective the week ending February 8, 2020. The Division determined that the claimant was not eligible for PUA benefits because she was not impacted by COVID-19 in a manner that made her a covered individual under the program.

Ms. Yunker-Hamsher did not have recent employment history leading up to the pandemic, because she was a stay at home mother to two boys. In early 2020, with one boy in preschool and the other age 2, she began to consider returning to the workforce. She would have had to find care for the two-year-old if she did start a job, something she apparently had not fully worked out in advance. She applied for two

jobs in 2020, both in the early days of the pandemic. One was as a pediatric receptionist; that job did not go to her for unknown reasons, and she assumes someone else was hired. The second application, in April, was to be a janitor in an early learning center. She has no information as to why she was not hired.

Beginning about March 9, 2020, the preschooler was no longer able to go to his all-day preschool because of COVID-19 school closure. However, this did not prevent Ms. Yunker-Hamsher from pursuing her job applications.

Ms. Yunker-Hamsher had respiratory symptoms beginning about January 4, 2020. She believes these to have been related to a COVID-19 infection.¹ The illness did not prevent her from pursuing her job applications.

EXCERPTS OF RELEVANT PROVISIONS OF LAW

The CARES Act of 2020, Public Law 116-136, Title II, Sec. 2102 Pandemic Unemployment Assistance

(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;

¹ The evidence on whether COVID-19 was present anywhere in the United States as early as January 4 is inconclusive. If so, numbers of infections appear to have been low. See Basavaraju, et al, Serologic Testing of US Blood Donations to Identify Severe Acute Respiratory Syndrome Coronavirus 2 (SARS-COV-2)-Reactive Antibodies: December 2019-January 2020, *Clinical Infectious Diseases*, Nov. 30, 2020 (<https://doi.org/10.1093/cid/ciaa1785>).

* * *

(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;

* * *

(gg) the individual was *scheduled to commence* [italics added] 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;

* * *

UIPL 16-20, Change 2 Issued by USDOL July 21, 2020

Question [14]: If an individual becomes unemployed for reasons unrelated to COVID-19, and now is unable to find work because businesses have closed or are not hiring due to COVID-19, is he or she eligible for PUA?

Answer: No. An individual is only eligible for PUA if the individual is otherwise able to work and available to work but is unemployed, partially unemployed, or unable or unavailable for work for a listed COVID-19 related reason under Section 2102(a)(3)(A)(ii)(I) of the CARES Act. Not being able to find a job because some businesses have closed and/or may not be hiring due to COVID-19 is not an identified reason.

APPLICATION

Ms. Yunker-Hamsher is a straightforward person who made no effort to embellish her claim. Regrettably, she did not fit the parameters for PUA eligibility in 2020.

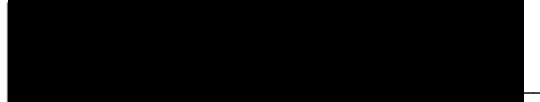
Both jobs Ms. Yunker-Hamsher applied for in 2020 were jobs for which she simply was not the selected candidate. She never had an offer of employment that was withdrawn due to the pandemic, and there is no basis to conclude that her failure to get an offer had anything to do with the pandemic.

There is no demonstrated connection between Ms. Yunker-Hamsher's child care challenges in 2020, or her early COVID symptoms, and her unemployment. These circumstances can lead to PUA eligibility, but only if there is a concrete connection to lost income that would otherwise have been made.

DECISION

The determination issued on October 6, 2020 is **AFFIRMED**.

Dated: March 10, 2021



Christopher Kennedy
Administrative Law Judge

APPEAL RIGHTS

This decision is final unless an appeal is filed in writing to the Commissioner of Labor and Workforce Development **within 30 days** after the decision is mailed to each party. The appeal period may be extended only if the appeal is delayed for circumstances beyond the party's control. A statement of rights and procedures is enclosed.

CERTIFICATE OF SERVICE

I certify that on March 11, 2021 the foregoing decision was served on Ashley Yunker-Hamsher (by mail and email). A courtesy copy was emailed to the UI Appeals Office for recordkeeping.


Office of Administrative Hearings