

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

In the Matter of)
)
SPENCER LADNER) OAH No. 21-0699-PUA
) Agency No. P20 577
_____)

APPEAL DECISION

Docket Number: P20 577

Hearing Date: May 12, 2021

CLAIMANT APPEARANCES:

Spencer Ladner

DETS APPEARANCES:

None

CASE HISTORY

The claimant, Spencer Ladner, contacted the Department of Labor after a July 29, 2020 re-determination which denied Pandemic Unemployment Assistance (PUA) benefits under the CARES Act, Public Law 116-136.

The Department of Labor referred that contact as an appeal to the Office of Administrative Hearings in February 2021. Under the terms of the referral, the administrative law judge (ALJ) hears and decides the appeal according to procedures specific to PUA appeals. The procedures at AS 44.64.060 do not apply.

The issue before the ALJ is whether the claimant is a “covered individual” as defined by the Act and therefore eligible for PUA benefits.

FINDINGS OF FACT

The July 29, 2020 re-determination, issued on July 30, 2020, denied Pandemic Unemployment Assistance (PUA) benefits for the period of March 29, 2020 through June 27, 2020. Mr. Ladner agrees he was paid PUA benefits for some or all of that time, and was later paid regular unemployment benefits for some portion of that time. He agrees he should not get both forms of benefits for duplicate time periods. However, because the communications from the Division did not clearly identify the periods for which he was paid different benefits, he is unable to say which dates had double payments, which dates had the correct benefits paid, and whether there were any weeks he should have received benefits but did not.

When Mr. Ladner called the Division on December 16, 2020, he was not attempting to appeal the July 29 re-determination shown in [REDACTED], issued on July 30, 2020. Instead, he had been calling the Division for several months about different determinations that denied him regular unemployment benefits, PUA benefits, and

sought recoupment of previously paid PUA benefits. Each time he spoke with a Division representative, he was told that the Division was attempting to straighten out his situation. He was also attempting to appeal those other determinations.

It is also important to note that when Mr. Ladner first applied for benefits, he was instructed by the Division to apply for both regular unemployment benefits as well as PUA benefits. Mr. Ladner then obtained a temporary job with the Census and worked from about August 1, 2020, through about October 13, 2020. He then reapplied for benefits and was again instructed to apply for both regular unemployment and PUA benefits. He was denied again, but was told he would be eligible for benefits in January of 2021. When he was found eligible for benefits in 2021, an overpayment was deducted from those benefits.

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 [of one or more of the specific reasons listed in the law].

APPLICATION

Mr. Ladner agrees with the July 29, 2020 determination that he was eligible for regular unemployment benefits – and therefore not eligible for PUA benefits – for the period of March 29, 2020 through June 27, 2020. He did not intend to appeal that determination.

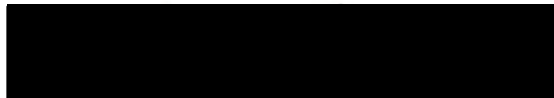
However, Mr. Ladner did orally appeal other determinations made by the Department of Labor. To the best of my knowledge, those appeals have not been referred to the Office of Administrative Hearings.

The Tribunal finds the claimant did not meet the definition of covered individual for the purposes of receiving benefits from the PUA program effective the week ending April 4, 2020, through the week ending June 27, 2020. The Tribunal further finds that the claimant orally appealed other determinations made by the Department of Labor subsequent to the July 29, 2020 re-determination.

DECISION

The re-determination made on July 29, 2020, and issued on July 30, 2020, is **AFFIRMED**, and this matter is **REMANDED** to the Department of Labor to review and address subsequent determinations and redeterminations concerning Mr. Ladner's applications for Pandemic Unemployment Assistance benefits, regular unemployment assistance benefits, and a waiver of any recoupment of overpayments of PUA benefits. As he has appealed all adverse determinations or re-determinations so the Department of Labor shall either resolve any dispute or refer all unresolved disputes to the appropriate appeal process.

Dated: May 12, 2021



Jeffrey A. Friedman
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that on May 12, 2021 the foregoing decision was served on Spencer Ladner (by mail and by email). A courtesy copy has been emailed to the DETS UI Technical Team, UI Support Team, and UI Appeals Team.



Office of Administrative Hearings