

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

In the Matter of )  
 )  
ELIZABETH DOSTERT ) OAH No. 21-1170-PUA  
 ) Agency No. P21 366  
\_\_\_\_\_ )

**APPEAL DECISION**

**Docket Number:** P21 366

**Hearing Date:** July 1, 2020

**CLAIMANT APPEARANCES:**

**DETS APPEARANCES:**

Elizabeth Dostert

None

**CASE HISTORY**

The claimant, Elizabeth Dostert timely appealed an adverse determination issued January 21, 2021 (Letter ID: L0009268503) which denied Pandemic Unemployment Assistance (PUA) benefits under the CARES Act, Public Law 116-136. The Department of Labor referred the appeal to the Office of Administrative Hearings on June 1, 2020. 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 July 1, 2021. The claimant, Elizabeth Dostert, appeared telephonically and testified credibly.

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

**FINDINGS OF FACT**

After her seasonal job as a “driver helper” for United Parcel Service (UPS) ended, Elizabeth Dostert established a claim for Pandemic Unemployment Assistance benefits effective February 8, 2020 after being directed to do so after being found ineligible for unemployment benefits. The Division initially found Ms. Dostert eligible and began payment of pandemic unemployment assistance, and continued payment through the week ending November 8, 2020. Following an interview with Ms. Dostert in January 2021, the DETS determined that the claimant had not been eligible for PUA benefits because was not impacted by COVID-19 in a manner that made her a covered individual under the program.

Ms. Dostert testified that her job as a “driver helper” for UPS was seasonal. It involved being collected by the driver and then delivering parcels from the van, so that two persons did delivery along a route. The job was temporary and ended in January. However, Ms. Dostert had made a good impression. When she called Roberta, in the UPS Human Resources office, about another job, Roberta suggested she apply for a “package handler” job, which she did.<sup>1</sup> She stated that Roberta did not promise that she would get the job, but she was given an interview date.

However, Ms. Dostert, who has a serious immune deficiency due to another illness,<sup>2</sup> was advised by her physician not to work outside her home during the pandemic. She submitted a copy of a note from her physician confirming that she had been so advised in February 2020. By the end of April 2021, she was fully vaccinated, and seeking work again. She recently had a position setting up displays in stores for a merchandising firm, but she was laid off by the end of June.

### **EXCERPTS OF RELEVANT PROVISIONS OF LAW**

#### **The CARES Act of 2020, Public Law 116-136, Title II, 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—

...

(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; . . . .

---

<sup>1</sup> Ms. Dostert subsequently interviewed for this job again and was offered the position contingent on passing the TSA background check as the position was on the airport grounds. Unfortunately, for reasons not relevant here, she did not pass.

<sup>2</sup> Ms. Dostert’s illness is not identified here but it was disclosed in the hearing. Her physician’s advice was entirely within CDC guidelines.

## APPLICATION

Ms. Dostert's claim rests on the fact that she was advised by her physician not to work during the pandemic. Ms. Dostert made no effort to suggest that the interview was more than it was, and clearly stated that she was not promised a job after her seasonal job ended. She clearly wanted to work, and, had her interview resulted in a job offer, she would not have been able to take it owing to her physician's advice. Regrettably, however, she nonetheless does not fit the parameters for PUA eligibility.

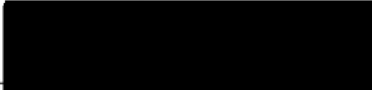
At the time she learned that her physician counseled her not to work due to the coronavirus pandemic, she was not "job attached." She did not have a "place of employment" that she was unable to reach due to having to self quarantine. Sadly, the fact that the pandemic made it harder for people like Ms. Dostert to seek employment by cutting off opportunities before they had a chance to develop, is not a basis for eligibility.

Ms. Dostert is advised that she should contact the DETS Benefit Payment Control (BPC) office, which handles waiver requests for overpayments. For questions and information regarding options that may be available, Ms. Dostert can call the BPC office at 907 465 2863 or 1 888 810 0789 or email to [jnu.bpc@alaska.gov](mailto:jnu.bpc@alaska.gov).

## DECISION

The determination made on January 21, 2021 (Letter ID: L0009268503) is AFFIRMED.


Dated: July 9, 2021.

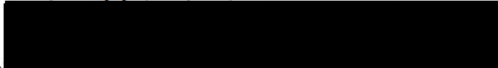
  
Kris Knudsen  
Administrative Law Judge

## 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 July 9, 2021, the foregoing decision was served on Elizabeth Dostert (by mail/email to: ). A courtesy copy has been emailed to the DETS UI Technical Team, UI Support Team, and UI Appeals Team.

  
Office of Administrative Hearings