

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

In the Matter of )  
 )  
KIMBERLY R. BEEBE ) OAH No. 21-1576-PUA  
 ) Agency No. P21-805  
\_\_\_\_\_ )

**APPEAL DECISION**

**Docket Number:** P21-805

**Hearing Date:** September 8, 2021

**CLAIMANT APPEARANCES:**

**DETS APPEARANCES:**

Kimberly R. Beebe

None

**CASE HISTORY**

Kimberly Beebe appealed a May 7, 2021 determination denying Pandemic Unemployment Assistance (PUA) benefits under the CARES Act, Public Law 116-136. The decision was recorded in Letter ID#L0012958893. When denying eligibility, the Division noted that Ms. Beebe was not entitled to PUA benefits “for the week ending October 31, 2020 through the week ending April 3, 2021.” This limitation on eligibility was based on a finding by the Division that Ms. Beebe was a seasonal worker. <sup>1</sup>

The Department of Labor and Workforce Development referred the appeal to the Office of Administrative Hearings on August 2, 2021. Under the 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 September 8, 2021. Ms. Beebe and her witness, Derek Kelly, testified telephonically and 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 beyond the already approved dates.

**FINDINGS OF FACT**

In late 2019, Ms. Beebe returned to Alaska from Arkansas where she had gone to assist her mother. In January and February 2020, Ms. Beebe began looking for work

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<sup>1</sup> Exhibit 1; Page 13: Adjudication notes:  
” Allowed Covid eligibility; April to October  
-Clmt hired on March 22, 2020.  
-Seasonal Employment from April to October.”

in Alaska. She did not have and still does not have a vehicle. She also has limited employment history<sup>2</sup> and has been, at times, homeless. She did, however, have past education in construction. Mr. Kelly is an old friend of her family and when he offered her a job at Uncle D's Handyman, she accepted.

She was set to begin work in March 2020. She was hired to manage and coordinate materials and supplies, and to do the office accounting. Because of Covid-19 related impacts on the handyman business, Uncle D's put off her start date indefinitely, planning to have her start work "when circumstances change".<sup>3</sup> Currently Mr. Kelly expects business to be strong enough that he can start her working full time in October 2021. Ms. Beebe has remained in Anchorage, Alaska available to work throughout 2020 and 2021. She has continued to look for work while waiting to start at Uncle D's, but she could not find a job that she could get to or work at without a vehicle. When she starts working at Uncle D's she will have the use of a company truck. She has remained in contact with Mr. Kelly to stay informed about when she can start.

#### **EXCERPTS OF RELEVANT PROVISIONS OF 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—

. . .

(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.

#### **UIPL 16-20, Change 5, 4.iii Issued by USDOL February 25, 2021**

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<sup>2</sup> Exhibit 1; Page 9

<sup>3</sup> Exhibit 1;Page 11.

Individuals experiencing a reduction of hours or a temporary or permanent lay-off. The Department approves the following COVID-19 related reason for an individual to self-certify for PUA eligibility: *“An individual is an employee and their hours have been reduced or the individual was laid off as a direct result of the COVID-19 public health emergency.”*

### **APPLICATION**

The documentary and testimonial evidence from the September 8, 2021 hearing establishes that Ms. Beebe had been offered a full-time permanent position working for Uncle D’s Handyman/Labor Services. Direct testimony from Derek Kelly, the owner of Uncle D’s Handyman Services, coupled with his March 28, 2021 letter<sup>4</sup> establish that Ms. Beebe had been offered a firm start date in March 2020. Mr. Kelly’s testimony and the March 28, 2021 letter also establish that the offer of employment had to be suspended due to Covid-19 shutdowns, and the resulting reduction in his business. He testified that he still intends to hire Ms. Beebe, and that he hopes to be able to do so by early October 2021. Mr. Kelly was specifically asked about his conversation with the Division on April 21, 2021. He explained that he did not say that Ms. Beebe was being hired only for the season. He reported that in March 2020 he intended to hire 3 people. Two would be part-time seasonal workers and the other hire, Ms. Beebe, was to be a year-round, full-time employee. He explained that when he said the job was seasonal or not, “depending on the job”, that that was what he meant. He was persuasive that he did not state that her job was going to be only seasonal. The fact that he informed the Division that her job would continue ‘when Covid is done’ additionally supports his intent to hire her full time and permanently since he was still holding a job for her in April 2021.

A separate factual issue is the start date of Ms. Beebe’s eligibility for PUA benefits. Mr. Kelly was clear in his conversation with the Division and when testifying that mid-March 2020 was the intended start date. He reported to the Division: “March 22, 2020-not exactly sure if it was the 21 or 22”.<sup>5</sup> He reported March 15, 2020 as the date while testifying. As a practical matter the week ending March 21, 2020 is consistent with either date in that timeframe.

### **DECISION**

It is the determination of this tribunal that Ms. Beebe fits the definition of a covered individual pursuant to The CARES Act of 2020, Public Law 116-136, Title II, Sec. 2102 Pandemic Unemployment Assistance. The DETS determination that she is ineligible for PUA benefits during an off season is **REVERSED**. Ms. Beebe is deemed to be a covered

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<sup>4</sup> Exhibit 1; Page 11.

<sup>5</sup> Exhibit 1; Page 12.

individual eligible for PUA benefits beginning the week that ended on March 21, 2020 and continuing until September 4, 2021.

Dated: October 6, 2021

[REDACTED]  
Karla F. Huntington  
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 October 6, 2021, the foregoing decision was served on Kimberley Beebe (by mail and email). A copy has been emailed to the DETS UI Technical Team, UI Support Team, and UI Appeals Team.

[REDACTED]  
Office of Administrative Hearings