

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

In the Matter of)
)
DONNA KNOWLES) OAH No. 21-2388-PUA
) Agency No. P21 999
_____)

APPEAL DECISION

Docket Number: P21 999

Hearing Date: November 9, 2021

CLAIMANT APPEARANCES:

DETS APPEARANCES:

Donna Knowles

None

CASE HISTORY

Ms. Knowles appealed a September 13, 2021 determination denying Pandemic Unemployment Assistance (PUA) benefits under the CARES Act, Public Law 116-136. The decision was recorded in Notice of Non-Monetary Issue Determination ID L0015812071. The Notice stated that Ms. Knowles was not eligible for PUA benefits from the week ending March 14, 2020 through the week ending May 2, 2020.¹

The Department of Labor and Workforce Development referred the appeal to the Office of Administrative Hearings on October 5, 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 November 9, 2021. Ms. Knowles testified telephonically and under oath. Prior to the hearing Ms. Knowles filed pay stubs and a pay history. These were filed October 25, 2021. These are identified as Exhibit A and were admitted at the hearing. On November 9, 2021 an order was issued holding the record open until November 11, 2021. On November 9, 2021 Ms. Knowles filed documentary proof that she had been hired with a January 13, 2020 start date. These documents are identified as Exhibit B and hereby admitted into evidence. On November 10, 2021 Ms. Knowles filed a copy of the Division's September 13, 2021 notification that she had an overpayment obligation of \$3,798.00. This document is identified as Exhibit C and is hereby admitted.

¹ Ms. Knowles was already approved for benefits beginning the week ending May 9, 2020 and continuing through the week ending April 3, 2021. Exhibit 1; Pages 35-36.

At its own election, the Division of Employment and Training Services (Division) provided only written materials for the hearing and was not a live participant. This material is identified as Exhibit 1 and was admitted as the hearing.

The matter was referred to the ALJ to consider whether identified Ms. Knowles met the eligibility requirements under the act from the week ending March 14, 2020 through the week ending May 2, 2020.²

FINDINGS OF FACT

Ms. Knowles was hired by Mat-Su Regional Medical Center (Medical Center) on January 7, 2020. Her start date was January 13, 2020.³ Ms. Knowles was hired to be a records reporter and registrar for the emergency room. Her training was to be in three parts. First, she was trained in general admissions registration and hospital protocol. Then she was scheduled to work on the general admission's desk. The last part of her training was the additional training needed to move to emergency room registration. By March 1 she was done with all training except the emergency room training. She was working on the regular admissions desk waiting for the emergency room training to begin. In early March of 2020, her training also included getting fitted for a N1 mask, how to use personal protective gear and how to follow Covid-19 protocols being developed by the medical center.

Ms. Knowles was working fulltime until March 13, 2020. On March 13, 2020 Ms. Knowles was informed that the Medical Center was not going to continue with the training program for her emergency room position due to Covid-19 related staff layoffs.⁴ She was advised not to come to work until they notified her that they were reinstating her training. On May 2, 2020 she was notified that the training, and her position, had been eliminated.

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—

² Ms. Knowles was approved for benefits beginning the week ending May 9, 2020 and continuing through the week ending April 3, 2021. Exhibit 1; Pages 35-36.

³ Exhibit B.

⁴ While the formal state closings were not until later in March, the Covid protocol trainings in place prior to March 13, 2020 support a finding that the layoff was related to Covid-19. Also, the Division has not challenged the claim that she was laid off due to Covid-19 issues.

(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—

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(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;

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(jj) the individual's place of employment is closed as a direct result of the COVID-19 public health emergency;

UIPL 16-20, Change 5 Issued by USDOL February 25, 2021

4. Guidance

a. Expanded list of COVID-19 related reasons approved by the Department---

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iii. Individuals experiencing a reduction of hours or a temporary or permanent layoff. 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.”

This new COVID-19 related reason expands eligibility beyond the current provision of item (jj) of Section 2102(a)(3)(A)(ii)(I) of the CARES Act, which is limited to situations where the individual’s place of employment is closed. Under this new COVID-19 related reason, if an individual is laid off because the place of employment is partially closed (either permanently or temporarily) or the individual has experienced a reduction in hours, the individual may now self-certify eligibility.

Generally, individuals in covered employment who are laid off, are experiencing a reduction in hours, or are working part-time as a result of partial business closure would qualify for regular UC (or PEUC or EB) and therefore would not be eligible for PUA. However, such individuals may not be eligible for regular UC (or PEUC or EB) because, for example, they lack sufficient wages to qualify, have a previous disqualification, or have exhausted regular UC, PEUC, and EB. This expanded

COVID-19 related reason establishes a circumstance under which they may self-certify eligibility for PUA.

APPLICATION

The factual dispute centers around the Division's determination that Ms. Knowles was not laid off from her Medical Center job until May 8, 2020. This finding was based on a July 30, 2021 phone call with the human resources department of Palmer-Wasilla Health System, which owns the Medical Center. This person was asked for Ms. Knowles' last day of work. The person reported that it was May 8, 2020.⁵ There was no discussion of whether the May 8, 2020 date reflected her last day of actual, paid work or the date that the position was formally terminated.

The Division's adjudication notes of July 19, 2021 adopted the May 8, 2020 date as her last day of work without, first, contacting Ms. Knowles to ask her about the discrepancy between the May 8, 2020 day and her claim that the last day of work was in March.⁶

The pay stubs and Pay History documents filed by Ms. Knowles⁷ clearly support Ms. Knowles' claim that she did not work at the Medical Center after her training was suspended on March 13, 2020. The Pay History shows any and all payments to her from the Medical Center starting January 24, 2020 and continuing for up to 30 pay periods. This document shows that she got her first paycheck on January 24, 2020. It also shows that her last full paycheck was issued on March 20, 2020. The March 20, 2020 check was in the amount of \$1756.36. The last payment listed is a payment of \$26.35 paid on April 3, 2020.

Ms. Knowles also provided her paystubs from the March 20, 2020 and April 3, 2020 pay dates referred to above.⁸ The paystub issued March 20, 2020 shows that she worked 36 hours between the March 1 start of the pay period and the March 14 end of the pay period. The paystub issued April 3, 2020 shows that she worked 0 hours between the March 15, 2020 start of the pay period and the March 28, 2020 end of the pay period. In combination, all the documents in Exhibit A show that her last day of work was before March 15, 2020. Ms. Knowles' testimony credibly established that her last day of work at the Medical Center was March 13, 2020. Her explanation, that the May 8, 2020 date reflects when the employer administratively ended her position, rather than her last day of paid work, is credibly and convincing.

Lastly, On September 13, 2020 Ms. Knowles received notification that she owed \$3798.00 in overpayments.⁹ Because this ruling determines that Ms. Knowles is

⁵. Exhibit 1: Page 28.

⁶. Exhibit 1: Page 29.

⁷. Exhibit A. Pay History.

⁸. Exhibit A: Pay stubs issued March 20, 2020 and April 3, 2020.


⁹. Exhibit C.

eligible for PUA benefits for all dates that she received payments, the claim that she owed overpayments has been resolved in her favor and is now moot.

DECISION

It is the determination of this tribunal that Ms. Knowles 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. Her eligibility began the week ending March 14, 2020 and continued through to the week ending April 3, 2021. The DETS determination that she was ineligible from the week ending March 14, 2020 through the week ending May 2, 2020 is **REVERSED in part**. Ms. Knowles is eligible for PUA benefits beginning the week ending March 21, 2020 and continuing until the week ending April 3, 2021. The Division's September 13, 2021 demand for \$3798.00 in overpayment recoupment is **DISMISSED**

Dated: November 19, 2021




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 November 19, 2021, the foregoing decision was served on Donna Knowles (by mail & email). A copy has been emailed to the DETS UI Technical Team, UI Support Team, and UI Appeals Team.



Office of Administrative Hearings