

DECISION DIGEST

Actual cases and rulings from Princeton Claims Management

DECEMBER 2020

PANDEMIC UNEMPLOYMENT ASSISTANCE (PUA) REQUIREMENTS

Background

A hospital pharmacy technician (employee) resigned during the early part of the pandemic due to concerns regarding the hospital's shortage of personal protective equipment (PPE).

The employee lived with her parents who had underlying conditions and she did not want to jeopardize their health. As a pharmacy tech, she did not have direct patient care and was only on COVID floors when she was required to restock drugs. The employee wore PPE for these assignments, but requested to be excused from floor duties due to her personal circumstances. Her supervisor considered the request, but was unable to approve it, as restocking drugs was an essential part of her job. Although the claimant had been provided with adequate PPE, she was dissatisfied with the supervisor's decision and resigned with three weeks' notice.

Process

The former employee (claimant) filed an unemployment claim and was held disqualified from regular UI benefits for quitting without good cause attributable to the work. The claimant disagreed and filed an appeal contending that her reasons for leaving the work were COVID-related, which should have entitled her to Pandemic Unemployment Assistance (PUA) under the CARES Act.

The claimant with counsel, the employer's witnesses and Princeton Claims Management (PCM) appeared for the hearing. In her testimony, the claimant acknowledged that she resigned because she was afraid of COVID and did not feel she was properly protected by her employer. Although she reported her grievances to her supervisor, she did not pursue her concerns to Human Resources nor consult her employee handbook for other options. Furthermore, the claimant did not provide any documentation from a physician that she was advised to leave work or self-isolate due to any pre-existing conditions of her own or her family. The employer credibly testified that the hospital was dealing with an unprecedented pandemic and did all it could to protect its workers. The witness further testified that although there were shortages of PPE, the claimant did not have direct patient care and was given the PPE necessary to perform her duties safely.

Judgment

The examiner opined that the claimant's leaving of work was disqualifying under regular UI because she did not make reasonable efforts to protect her job. Not only did she fail to explore other options to resigning, but she also failed to provide any medical documentation to substantiate that her work aggravated a health condition. Moreover, he opined that if she felt so unsafe, she would have resigned immediately and not given three weeks' notice. The examiner also considered the claimant's contention that her leaving was covered under the CARES Act. The examiner rejected this claim too because she was not unemployed due to any of the COVID related reasons identified in the Act, as no one in her household was diagnosed with COVID, nor was she advised to self-quarantine. Therefore, since she was unable to demonstrate good cause for leaving under regular UI or Pandemic Unemployment Assistance, her disqualification for benefits was upheld under N.J.S.A. 43-21-5(a) and Section 2102(a)(3)(A)(ii)(I) of the CARES Act.

The claimant's attorney disagreed with the examiner's decision and appealed to the Board of Review (Board) the final level of the administrative appeal process. In the appeal, the claimant argued she legitimately feared for her safety due to the employer's shortage of PPE and therefore, she met the conditions of eligibility under PUA because her quitting was Covid-related. The Board will review the evidence and render its decision in six to eight weeks. Stay tuned.

This decision illustrates that even though an individual is disqualified under regular UI, Pandemic Unemployment Assistance (PUA) is still available under the CARES Act, if an individual meets any of the COVID related reasons identified in the Act.

For more information about Princeton Claims Management or unemployment insurance eligibility amid COVID-19 please contact LuAnne Rooney Frascella at 609.936.2207 or lfrascella@njha.com.