

*This opinion is nonprecedential except as provided by
Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A21-0934**

In the Matter of:
Michael Hein.

**Filed March 28, 2022
Reversed
Klaphake, Judge***

Department of Employment and Economic Development
File No. 46493143-3

Stephanie M. Balmer, Falsani, Balmer, Peterson & Balmer, Duluth, Minnesota (for relator)

Anne Froelich, Keri Phillips, Minnesota Department of Employment and Economic
Development, St. Paul, Minnesota (for respondent)

Considered and decided by Ross, Presiding Judge; Larkin, Judge; and Klaphake,
Judge.

NONPRECEDENTIAL OPINION

KLAPHAKE, Judge

Relator Michael Hein challenges an unemployment-law judge's (ULJ) determination that he was ineligible for pandemic unemployment assistance (PUA) following a COVID-19-related furlough from his full-time job because he was eligible for regular state unemployment benefits based on earnings from a part-time job. Relator

* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to Minn. Const. art. VI, § 10.

contends the ULJ erred by interpreting federal law to conclude he was eligible for state unemployment benefits and thus ineligible for PUA. PUA is a provision of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) which was signed into law on March 27, 2020; the portions of the CARES Act relevant here are codified in 15 U.S.C.A. §§ 9021-9034 (West Supp. 2021).

We determine the ULJ's decision was affected by an error of law because our de novo interpretation of the CARES Act indicates that "not eligible" under the PUA eligibility requirement means the applicant is unable to collect funds from federal or state unemployment insurance programs. Because it is undisputed that relator was never able to collect state unemployment benefits due to disqualifying income from part-time work, and he was ineligible to receive federal unemployment benefits for his full-time job under the federal Railroad Insurance Act, we reverse.

DECISION

This court can reverse or modify a ULJ's decision if the appellant's rights were prejudiced because the decision was affected by an error of law. Minn. Stat. § 268.105, subd. 7(d)(4) (2020). "If the relevant facts are not in dispute, we apply a de novo standard of review to the ULJ's interpretation of the unemployment statutes and to the ultimate question whether an applicant is eligible to receive unemployment benefits." *Menyweather v. Fedtech, Inc.*, 872 N.W.2d 543, 545 (Minn. App. 2015). We review de novo an agency's interpretation and application of federal law. *In re Gillette Children's Specialty Healthcare*, 883 N.W.2d 778, 784 (Minn. 2016).

In interpreting a federal statute, appellate courts must “give effect to the will of Congress.” *Goodman v. Best Buy, Inc.*, 777 N.W.2d 755, 758 (Minn. 2010) (quotation omitted). “[I]t is necessary to ‘consider not only the bare meaning’” of the words or phrases used therein, “but also [their] placement and purpose in the statutory scheme.” *Id.* (quoting *Bailey v. United States*, 516 U.S. 137, 145 (1995)). The United States Department of Labor published a letter, and six subsequent changes to that letter, to help states implement and apply the CARES Act. *See* U.S. Dep’t of Labor, Unemployment Insurance Program Letter No. 16-20 (Apr. 5, 2020) (UIPL 16-20).

The single issue here is whether relator is eligible for PUA under the CARES Act. Relator contends the ULJ “erred as a matter of law” by determining he is ineligible for PUA. Respondent, the Department of Employment and Economic Development (DEED), argues the ULJ came to the “correct” legal conclusion in determining relator “is not eligible for PUA because he is not ineligible for regular compensation under state law.”

PUA provides “any covered individual” with unemployment benefit assistance while they are unemployed. 15 U.S.C.A. § 9021(b). PUA is available when the covered individual is not entitled to any other funds received under a federal or state law in unemployment compensation. *Id.*; 26 U.S.C.A. § 85(b) (West Supp. 2021). To be a “covered individual,” an applicant must fulfill three requirements. Relevant here is the requirement that the applicant “is not eligible for regular compensation or extended benefits under State or Federal law or pandemic emergency unemployment compensation.”

15 U.S.C.A. § 9021(a)(3)(A)(i).¹ As UIPL 16-20 explains, “[t]he CARES Act was designed to mitigate the economic effects of the COVID-19 pandemic in a variety of ways,” one of which is providing “temporary benefits” to “individuals who are not eligible for regular [unemployment compensation],” including “those who otherwise do not qualify for regular unemployment compensation” under state or Federal law. UIPL 16-20, at 1-2. In other words, PUA under the CARES Act is meant to provide temporary monetary assistance to individuals who lost employment because of COVID-19 and cannot receive regular unemployment benefits under federal or state law. Based on this language, we find it unambiguous that the meaning of “not eligible” under PUA means the applicant is unable to receive benefits from state or federal unemployment insurance programs. This understanding comports with the overall intent of Congress in promulgating the legislation. *See Goodman*, 777 N.W.2d at 758 (stating we must “give effect to the will of Congress” when interpreting a federal statute).²

¹ Pandemic emergency unemployment compensation (PEUC) is available to individuals who have received all regular unemployment benefits available to them for a particular benefit year. *Id.*, § 9025(a)(2)(A). As Hein did not receive any unemployment benefits from the state during his benefit year, he is ineligible for PEUC, so PEUC is not relevant to our analysis.

² Respondent relies on the eligibility requirements listed in the Disaster Unemployment Assistance Act (DUA) to determine relator is ineligible for PUA. The CARES Act does indicate DUA “shall apply” to the CARES Act as if “‘COVID-19 public health emergency’ were substituted for the term ‘major disaster’” each place it appears in DUA, and “‘pandemic’ were substituted for the term ‘disaster’” each place it appears in DUA. 15 U.S.C.A. § 9021(h). However, the UIPL guidance states, “[w]here the CARES Act and the operating instructions are silent, states should refer to DUA regulations at 20 C.F.R. pt. 625 (2021). Where DUA regulations are silent, states should follow applicable state law for administering the regular [unemployment compensation] program.” *See* U.S. Dep’t of

The evidence here is undisputed. Even though relator's full-time job was not covered by Minnesota Unemployment Insurance Law, it was covered by the federal Railroad Insurance Act, but relator was ineligible for Railroad Unemployment Insurance. Relator's part-time job at a restaurant in northern Minnesota is covered under Minnesota Unemployment Insurance Law and relator established an unemployment benefits account with DEED based on this part-time employment. However, because the benefits account was based solely on relator's wage credits for his part-time job, his weekly benefit amount was only \$111.³ Relator, however, never received any benefits from his state unemployment benefits account because each week he requested benefits, he reported earnings higher than his allotted weekly benefit amount of \$111. Stated simply, relator never received any unemployment benefits from either federal or state unemployment insurance programs.

Thus, based on our adopted definition of "not eligible" under PUA's eligibility requirements, relator is eligible for PUA benefits because he was unable to receive funds under both Minnesota Unemployment Insurance Law, and the federal Railroad Insurance Act.

Labor, Unemployment Insurance Program Letter No. 16-20, Change 1 (Apr. 27, 2020). Because we do not find PUA unclear, we need not review DUA for guidance.

³ When relator discovered his state unemployment benefit account was based solely on his part-time work, he appealed DEED's determination and a ULJ affirmed relator could not receive wage credits from his full-time job because it was noncovered under Minnesota Unemployment Insurance Law. *See* Minn. Stat. § 268.035, subd. 20 (2020).

DEED acknowledged during oral arguments that the ULJ's application of the CARES Act to relator's situation created an unfair result given relator's inability to collect any unemployment funds, despite his loss of full-time employment. DEED also acknowledges "[relator's] situation is not uncommon," stating:

As the PUA program was rolled out, many applicants who worked full time in self-employment or other noncovered employment, but had a part-time job in covered employment, found themselves in a similar situation: they had a low weekly benefit amount, based solely on wages from their part-time employment, but did not qualify for a PUA account with a higher benefit amount because of their eligibility for regular unemployment benefits.

Congress, as DEED points out in its brief, recognized this unfair result, and tried to mitigate the unfairness for self-employed workers when it promulgated the Mixed Earner Unemployment Compensation (MEUC) program, which permitted an additional \$100 payment to persons who received non-PUA unemployment benefits and reported at least \$5,000 in self-employment income in the most recent taxable year. *See* 15 U.S.C. § 9023(b)(1)(C) (2020). Congress's promulgation of MEUC also supports our determination that the unfair application of the CARES Act in relator's case was not intended by Congress because MEUC shows Congress did not intend for mixed earners to be unable to receive benefits.

In sum, because relator was unable to receive benefits under either federal or state unemployment programs, he is eligible for PUA benefits. Therefore, we reverse the ULJ's

decision that relator is ineligible for PUA because the decision was affected by an error of law. *See* Minn. Stat. § 268.105, subd. 7(d)(4).

Reversed.