

*This opinion is nonprecedential except as provided by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
A21-1657**

Pablito Vega,
Relator,

vs.

Department of Employment and Economic Development,
Respondent.

**Filed July 25, 2022
Affirmed
Frisch, Judge**

Department of Employment and Economic Development
File No. 44982519-2

Pablito Vega, St. Paul, Minnesota (pro se relator)

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

Considered and decided by Frisch, Presiding Judge; Worke, Judge; and Reilly,
Judge.

NONPRECEDENTIAL OPINION

FRISCH, Judge

Relator challenges the denial of his application for pandemic unemployment assistance (PUA) benefits by respondent Minnesota Department of Employment and Economic Development (DEED), arguing that he submitted sufficient documentation to establish that he was entitled to such benefits. We affirm.

FACTS

In December 2020, relator Pablito Vega filed an application for PUA benefits with DEED. Vega indicated on the application that he was employed as a “Quantitative Analyst” at a company named “Vega Global Advisors,” and he worked “[t]hrough-out the Mid-West and including Saint Paul.” Vega also listed “Wisconsin” as his employer, stated that he was both self-employed and an employee, and claimed that he was both “totally unemployed” because his “employer laid [him] off” and that he was “self-employed,” “ha[d] lost business due to [the] COVID-19” pandemic, and was “re-building Vega Global Advisors without compensation.” When asked to provide any other relevant information, Vega wrote “Vega Global Advisors is a private firm not open to the public and does not share private information about its operations.” Vega also indicated that he would not provide DEED any documentation to support his application.

In January 2021, DEED denied Vega’s application for benefits. Vega filed an administrative appeal. In early February, DEED requested that Vega provide documentation within a week to substantiate his identity and employment in Minnesota and subsequently scheduled an evidentiary hearing for April 16. Vega did not submit documentation to DEED until April 16, and DEED did not hold a hearing. Instead, in June 2021, the unemployment-law judge (ULJ) issued a decision finding Vega ineligible for PUA benefits because “[t]here is insufficient evidence to support a finding that Vega engaged in Minnesota based work that was impacted by the Pandemic.”

Vega petitioned this court for certiorari review of the ULJ’s determination. In July, we denied Vega’s petition as premature because DEED’s decision was not yet final. *Vega*

v. Dep't of Emp. & Econ. Dev., No. A21-0784 (Minn. App. July 6, 2021) (ord.), *rev. denied* (Minn. Aug. 10, 2021). DEED construed Vega's premature appeal as a request for reconsideration, scheduled a hearing for October 2021, and ordered Vega to submit certain documentation prior to the hearing to substantiate his identity, work history in Minnesota, Minnesota residency, and income. Vega submitted some documentation to DEED prior to the hearing, including a nearly illegible New York birth certificate, a redacted Social Security card, an expired Wisconsin voter identification, a Florida work identification, self-prepared tax documents, and several purported paystubs.

On October 13, the ULJ held a hearing. Vega testified that since June 2019, he had lived at a St. Paul address that he had provided to DEED, but he did not have a Minnesota identification card. Vega admitted that the Midwest headquarters of Vega Global Advisors was located in Wisconsin. He also explained that Vega Global Advisors was a "private firm," "a private start up, ah, Cloud computing, and other, ah, markets, ah, advisements, ah, to a private client base." Vega testified that in March 2020, he became an owner in the firm, and he was the sole employee of the company.

Although Vega represented that the company had physical locations in Florida and Wisconsin, he testified that the company itself existed in "the Cloud." Vega stated that the Florida location served as the address for "payroll documentation," while the Wisconsin location served as a base to gain financing to rebuild the "Cloud base." Vega claimed that he met with clients at the St. Paul address. When the ULJ asked Vega to describe his clients and how he assisted them, Vega claimed that he was not "authorized" to discuss any details about his clients and that it was a "private firm." Vega eventually claimed that

his work consisted of helping clients understand the world of information technology and advising clients regarding financial markets.

The ULJ also asked Vega questions about the documentation he had submitted. Vega testified that he prepared the tax documents himself but contracted with an outside firm to handle payroll. When asked if he had any utility bills for the St. Paul address he provided to DEED, Vega replied that he did not because his girlfriend leased the residence, and she had not “authorized” him to release that information.

In late October 2021, the ULJ denied Vega’s application. The ULJ found that Vega failed to submit sufficient documentation to establish eligibility for PUA benefits, explicitly finding Vega’s testimony not credible and that the documents he submitted were not authentic. In November 2021, Vega filed a request for reconsideration with DEED. In December 2021, DEED affirmed the ULJ’s decision. Vega appeals by writ of certiorari.

DECISION

Vega argues that he is entitled to PUA benefits under the Coronavirus Aid, Relief, and Economic Security (CARES) Act and that the ULJ and DEED erred by not properly considering the evidence he presented of his identity and his employment in Minnesota.

We may 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). “We review de novo a ULJ’s determination that an applicant is ineligible for unemployment benefits. And we review findings of fact in the light most favorable to the ULJ’s decision and will rely on findings that are substantially supported by the record.” *Fay v. Dep’t of Emp. & Econ. Dev.*, 860 N.W.2d 385, 387 (Minn. App. 2015) (quotation

omitted). We give deference to the credibility determinations of the ULJ. *Peterson v. Nw. Airlines, Inc.*, 753 N.W.2d 771, 774 (Minn. App. 2008), *rev. denied* (Minn. Oct. 1, 2008). We review de novo DEED’s interpretation of the CARES Act. *In re Muse*, 956 N.W.2d 1, 3 (Minn. App. 2021).

To qualify for PUA benefits, an applicant must “provide[] documentation to substantiate employment or self-employment . . . [after] the individual submits an application for pandemic unemployment assistance under this section . . . in accordance with section 625.6(e) of title 20, Code of Federal Regulations.” 15 U.S.C.A. § 9021(a)(3)(A)(iii) (West 2021). The applicant must establish that their inability to work was caused by one of eleven reasons related to COVID-19. *Id.* (a)(3)(A)(ii)(I). An applicant may only apply for benefits in the “applicable state,” meaning the state where the COVID-19 pandemic affected their employment. *Id.* (a)(3)(A)(iii), (h) (West 2021); 20 C.F.R. § 625.12(a) (2020). Failure to submit proper documentation sufficient to substantiate employment or self-employment renders an applicant ineligible to receive benefits under both federal and state law. 20 C.F.R. § 625.6(e)(2) (2020); Minn. Stat. §§ 268.085, subd. 2(4) (Supp. 2021), .101, subd. 1(a) (2020).¹

Here, the ULJ found that Vega did not submit sufficient documentation to establish eligibility for PUA benefits. On February 8, 2021, DEED requested that Vega submit documents by February 16 to verify his identify and Minnesota employment, including

¹ In 2021, the legislature repealed in part and renumbered the paragraphs in this subdivision without altering the language relevant here. 2021 Minn. Laws 1st Spec. Sess. ch. 10, art. 4, § 2, at 66; *see* Minn. Stat. § 268.085, subd. 2(5) (2020).

state identification and other documentation such as a utility bill or bank statement if the state identification did not list his current address. In September 2021, DEED again made this request to Vega. Vega failed to submit any such documentation and instead submitted an expired Wisconsin voter identification listing a Milwaukee address, an apparent work identification listing a Miami, Florida address, an illegible New York birth certificate, and a redacted Social Security card for a “Pablo” Vega. And instead of submitting a utility bill or a bank statement mailed to his purported St. Paul address, he submitted an alleged 1099 tax form, a Wisconsin 1040 tax form, and purported paystubs containing the St. Paul address. The ULJ found these documents to be inauthentic, explicitly noting the paystub’s unusual appearance, while also finding Vega’s testimony to be not credible. The ULJ did not credit Vega’s testimony and gave no weight to the evidence he provided. Because we give deference to the ULJ’s credibility determinations, we do not reweigh this evidence on appeal. *Peterson*, 753 N.W.2d at 774. And our review of the record shows that the ULJ’s findings are supported by the record. Therefore, we affirm the ULJ’s decision.

Vega seems to argue that despite the statutory text authorizing DEED to validate an applicant’s employment in the state prior to issuing benefits, our decision in *In re Murack*, 957 N.W.2d 124 (Minn. App. 2021), relieves him of this requirement and DEED violated his due-process rights by requiring him to submit documentation substantiating his application. But Vega misreads *Murack*; our decision in that case related to the suspension of strict compliance of the 20-day administrative-appeal deadline, not the suspension of any and all validation procedures to ensure that an applicant qualifies for PUA benefits in

the first instance. *Murack*, 957 N.W.2d at 131; *see* Minn. Stat. § 268.101, subd. 2(f) (2020).

DEED is required by statute to obtain basic information related to an applicant's identity and employment to answer the foundational question of whether the applicant was employed in Minnesota and if the COVID-19 pandemic affected that employment. *See* Minn. Stat. § 268.101, subd. 1 (2020) (“[T]he applicant must also provide all information necessary to determine the applicant’s eligibility for unemployment benefits under this chapter. If the applicant fails or refuses to provide information necessary to determine the applicant’s eligibility for unemployment benefits, the applicant is ineligible for unemployment benefits . . . until the applicant provides this required information.”); *see also* 15 U.S.C. § 9021(a)(3)(A)(iii) (requiring the PUA applicant to provide documentation to substantiate employment or self-employment); Minn. Stat. §§ 268.07, subd. 1(a) (requiring the applicant to submit all requested information before being approved for unemployment benefits), .085, subd. 2(4) (providing that the applicant is not eligible in any week “that the applicant fails or refuses to provide information on an issue of ineligibility”) (2020). This information is also necessary for DEED to accomplish the important policy goal of preventing fraud. *See* Minn. Stat. § 268.182 (2020); 20 C.F.R. § 625.14(h) (2020) (requiring states to apply fraud-prevention procedures consistent with those applied to regular unemployment-compensation program); U.S. Dep’t of Lab., Unemployment Insurance Program Letter No. 16-20, Change 2, at I-9 to -10 (July 21, 2020) (explaining that states have authority to investigate potentially fraudulent applications notwithstanding self-certification under PUA, including that “[i]f a state has reasonable suspicion of

fraudulent activity . . . the state may request supporting documentation to address the concern”).

Although Vega argues that he should not have been required to submit documentation substantiating his residency and employment in Minnesota, both state and federal statutes and regulations establish otherwise. We find no error or due-process violation in DEED’s requests for documentation to Vega.

Affirmed.