

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Youthprise, Cole Stevens, Hayat Muse,
and Lincoln Bacal

Court File No.

Plaintiffs,

**COMPLAINT FOR INJUNCTIVE
RELIEF**

v.

Minnesota Department of Employment
and Economic Development and Steve
Grove, in his official capacity as
Commissioner of the Minnesota
Department of Employment and
Economic Development,

Defendants.

Youthprise, Cole Stevens, Hayat Muse, and Lincoln Bacal (collectively,
“Plaintiffs”) for their Complaint against the Minnesota Department of Employment and
Economic Development and Steve Grove, sued here in his capacity as the Commissioner
of the Minnesota Department of Employment and Economic Development, allege as
follows:

INTRODUCTION

1. In response to the economic disruption caused by the COVID-19 pandemic,
the worst public health crisis in the past 100 years, the federal government enacted the
Coronavirus Aid, Relief and Economic Security Act (“CARES Act” or “the Act”). Relief
provided pursuant to the CARES Act includes the Pandemic Unemployment Assistance
(“PUA”) program, which provides unemployment compensation for individuals who
have experienced a loss or reduction of employment because of factors related to

COVID-19 but do not qualify for standard unemployment compensation benefits.

Plaintiffs are, or represent, Minnesota high school students who have experienced loss or reduction of employment due to COVID-19 and applied for and been denied benefits under the PUA program. Because high school students are categorically ineligible for unemployment benefits under Minnesota law, they are among the intended beneficiaries of the PUA program. The individual Plaintiffs and the young people that Youthprise represents meet all requirements to receive PUA benefits but the Minnesota Department of Employment and Economic Development has, nevertheless, denied their applications for benefits solely on the ground that they are high school students. Accordingly, Plaintiffs have commenced this action to vindicate rights under federal law.

PARTIES

2. Youthprise is a Minnesota nonprofit corporation under Section 501(c)(3) of the Internal Revenue Code with its offices in northeast Minneapolis. Youthprise's mission is to increase equity with and for Minnesota's indigenous, low-income, and racially diverse youth. Youthprise advances its mission by mobilizing and investing resources, advancing knowledge, and advocating for change in its three impact areas of learning and leadership, economic opportunity, and health and safety. Through its direct-service programs and the work of its partners and grantees, Youthprise supports thousands of youth across Minnesota annually, including numerous high school students who have lost employment as a direct result of the COVID-19 global pandemic and who have been and will be harmed as a direct result of violations of law alleged in this Complaint.

3. Cole Stevens is a resident of Bloomington who graduated from Roosevelt High School in mid-May, 2020.

4. Hayat Muse is a resident of Blaine, Minnesota, and is currently a senior at Spring Lake Park High School.

5. Lincoln Bacal is a resident of Minneapolis and graduated in June 2020 from Venture Academy, a public charter school located in Minneapolis.

6. The Minnesota Department of Employment and Economic Development is an executive agency of the state of Minnesota and is responsible for administering the payment of unemployment compensation benefits, including but not limited to the payment of benefits under the federal PUA program, on which the claims alleged in this case are based.

7. Steve Grove is the Commissioner of the Minnesota Department of Employment and Economic Development and, in that capacity, is the Department's highest decision-making authority. Upon information and belief, Commissioner Grove is a resident of Minnesota. Commissioner Grove and the agency that he heads will be referred to in this Complaint collectively as "DEED."

JURISDICTION AND VENUE

8. This Complaint alleges that DEED has violated federal law, specifically the federal law governing the PUA program, which provides unemployment compensation benefits for people who have lost employment as a direct result of the COVID-19 pandemic and who do not qualify for unemployment benefits under the regular unemployment compensation system. Plaintiffs have a private right of action under 42

U.S.C. §1983 to enforce federal law. Accordingly, this Court has subject matter jurisdiction over this matter as one arising from a violation of federal law. 28 U.S.C. §1331.

9. This is the federal judicial district where DEED is located. Accordingly, venue in this Court is proper under 28 U.S.C. §1391(b)(1).

COMMON ALLEGATIONS

10. The COVID-19 global pandemic has caused unprecedented disruption of the American economy, including the economy in Minnesota. As a result of measures adopted by the government and in the private sector to prevent the spread of disease, many businesses have closed, either temporarily or permanently, and many others greatly reduced their operations.

11. As a result of this economic disruption, Minnesota has experienced and is experiencing record levels of unemployment. A few statistics, compiled by DEED, illustrate the depth of the problem. From March to April of this year, unemployment in the Minneapolis-St. Paul Metropolitan Statistical Area nearly tripled, from 3.1% to 9.2%. Unemployment in Minneapolis-St. Paul MSA in June, the last month for which data is available from DEED, was 9.2%.¹ According to data available on DEED's website, from March 16 to August 17, 2020, Hennepin County residents filed 914,767 applications for unemployment compensation with DEED, a number equal to 31.9% of the 2019 workforce in Hennepin County.²

¹ See <https://apps.deed.state.mn.us/lmi/laus/detail.aspx?geog=2721033460&adjust=0&graph=1>.

² See <https://mn.gov/deed/data/current-econ-highlights/ui-statistics.jsp>.

12. The disproportionate impact of the economic disruption from COVID-19 on people of color, especially young people of color, is well documented. In Minnesota, nearly one in two Black workers have applied for unemployment benefits since mid-March 2020 compared to approximately one in four white workers. Minnesota high school age youth are 45% more likely to be people of color than Minnesotans ages 20 – 64. The national unemployment rate for workers ages 16 – 19 in July 2020 (19.3%) is nearly double the rate for all workers ages 16 and older (10.2%). This means that Minnesota high school students are more likely to be unemployed and more likely to be people of color than the general working population.

13. To help ameliorate the economic hardship caused by the pandemic, Congress overwhelmingly adopted the CARES Act and President Trump signed the Act into law on March 27, 2020. The CARES Act created a number of federal financial assistance programs targeted to help people suffering financially because of the pandemic.

14. The PUA program is one of the federal financial assistance programs created by the CARES Act. See CARES Act, Title II, Subtitle A, Section 2102.

15. The PUA program directs the United States Secretary of Labor to “provide to any covered individual unemployment benefit assistance while such individual is unemployed, partially unemployed, or unable to work for the weeks of such unemployment with respect to which the individual is not entitled to any other unemployment compensation.” CARES Act, Section 2102(b).

16. The CARES Act defines “covered individual” to mean an individual who “is not eligible for regular compensation or extended benefits under State or Federal law or pandemic emergency unemployment compensation under section 2107 [*i.e.*, providing extended benefits to individuals who have exhausted their rights to unemployment compensation]” and who self-certifies that he or she “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 of statutorily-specified causes related directly to COVID-19. CARES Act, Section 2102(a)(3).

17. “Unemployment compensation” for purposes of these provisions means “any amount received under a law of the United States or of a State which is in the nature of unemployment compensation.” 26 U.S.C. §85(b); CARES Act, Section 2102(b).

18. To the extent that an individual otherwise qualifies for PUA benefits, the fact that the individual is a high student does not disqualify him or her from receiving those benefits. To that end, the Department of Labor has provided the following guidance:

Question: A full-time student who works part-time may be excluded from [Disaster Unemployment Assistance] because he or she has not lost their “principal source of income” as described under 20 C.F.R. §625.2(s). Is he or she eligible for PUA?

Answer: Yes. Provided a full-time student who worked part-time is unemployed, partially employed, or unable or unavailable to work because of one of the COVID-19 related reasons in Section 2102(a)(3)(A)(ii)(I) of the CARES Act, then he or she may be eligible for PUA.

The requirement that the employment be the “principal source of income” under DUA does not apply to eligibility for PUA.

See Unemployment Insurance Policy Letter No. 16-20 Change 1.³

19. Financial assistance available under the PUA program is administered by the states, pursuant to agreements entered into between the states and the Secretary of the United States Department of Labor. CARES Act, Section 2102(f)(1).

20. A state entering into an agreement to administer PUA benefits is entitled to payment from the federal government in the amount of 100% of benefits paid pursuant to the agreement, plus administrative expenses that the state incurs. CARES Act, Section 2012(f)(2).

21. On behalf of the state of Minnesota, DEED has entered into an agreement with the federal government to administer the PUA program in a manner that complies with federal law.⁴

22. Under Minnesota law, high school students are categorically ineligible for unemployment compensation. Minn. Stat. §268.085, subd. 2(3).

23. Notwithstanding that high school students are not eligible for regular unemployment compensation under Minnesota law, DEED has adopted a policy that high school students who otherwise meet the requirements for compensation under the PUA program are not eligible for such compensation solely because they are high school students.

³ Available at https://wdr.doleta.gov/directives/attach/UIPL/UIPL_16-20_Change_1.pdf (Question No. 28).

⁴ See <https://mn.gov/deed/newscenter/press-releases/?id=1045-429696>

24. Cole Stevens was employed at The Grind Coffee and Creamery until the business closed permanently in late April because of the COVID-19 pandemic. Cole applied for unemployment benefits and DEED informed him that his application would be considered under the PUA program. Although he initially received benefits for approximately four weeks, DEED informed Cole that his benefits were being terminated because, as a high school student, he was not eligible for unemployment compensation benefits, including PUA benefits. Cole appealed from DEED's denial of benefits and, although DEED agreed to waive payback of a portion of the benefits that Cole had already received, DEED continues to seek to recover a portion of the benefits Cole has already received.

25. Hayat Muse is currently employed at Caribou. In March 2020 she was furloughed from her job because of economic conditions relating to the COVID-19 pandemic. Although she has returned to her job, she is working at greatly reduced hours. Hayat applied for unemployment compensation benefits through DEED. She initially received benefits under the PUA program as well as Federal Pandemic Unemployment Compensation program, which supplements PUA benefits. Although Hayat met all requirements to receive PUA benefits, payments were soon terminated and DEED informed Hayat that she was not eligible because she was a high school student. Hayat appealed from that determination and the unemployment compensation judge affirmed the denial. Hayat has sought reconsideration of the unemployment compensation judge's decision and reconsideration has been denied.

26. Lincoln Bacal is employed at Sebastian Joes. Although her employment was not formally terminated, she was taken off the schedule in March 2020 when her employer closed its business as a result of the Governor's Executive Order that restricted the activities of non-essential businesses. Although her employer has now re-opened, Lincoln has only worked one shift since March. In March, Lincoln applied for unemployment compensation benefits under the PUA program and her application was denied on the ground that, because she was a high school student, she was not eligible for unemployment compensation. As a result of losing her employment and DEED's denial of her application for PUA benefits, Lincoln has been forced to defer her enrollment in college.

27. DEED has similarly denied the applications for PUA benefits by numerous other young people who are represented in this case by Youthprise solely because they are high school students.

28. Although DEED initially approved the applications of high school students, DEED has sought repayment of PUA benefits received on the ground that, as high school students, they were ineligible to receive benefits.

29. The individual Plaintiffs as well as young people represented by Youthprise whose applications for PUA benefits have been denied have fully exhausted their administrative remedies or, to the extent they have not, further efforts would be futile because DEED has made up its mind on the issue.

COUNT ONE

**(Deprivation of Rights Provided Under Federal Law in Violation of
42 U.S.C. §1983)**

30. Plaintiffs incorporate by reference the above Paragraphs 1 through 29.

31. Cole Stevens, Hayat Muse, Lincoln Bacal and numerous young people represented by Youthprise are high school students who are able and available to work but are unemployed, partially unemployed, or unable or unavailable to work because of reasons directly related to COVID-19 that meet one or more of the statutory criteria specified for compensation under the PUA program. Additionally, they are ineligible, by operation of Minnesota law, for compensation under the regular unemployment compensation system. Therefore, Cole Stevens, Hayat Muse, Lincoln Bacal and numerous young people represented by Youthprise are “covered persons” entitled to financial assistance under the federal PUA program.

32. Cole Stevens, Hayat Muse, Lincoln Bacal and numerous other young people represented by Youthprise have submitted claims to DEED for benefits under the PUA program.

33. DEED has denied claims for benefits under the PUA program submitted by Cole Stevens, Hayat Muse, Lincoln Bacal and numerous other young people represented by Youthprise solely because the applicants are high school students.

34. In denying these applicants benefits that they are entitled to under the federal PUA program, DEED has acted under color of law to deprive the applicants of rights provided by federal law, in violation of 42 U.S.C. §1983.

35. DEED has improperly sought recovery of PUA benefits paid to high school students on the ground that high school students are not eligible to receive unemployment benefits.

36. Cole Stevens, Hayat Muse, Lincoln Bacal and numerous other young people represented by Youthprise have suffered and will continue to suffer harm as a result of DEED's denial of their applications for PUA benefits to which they are entitled under federal law. They face demands from DEED that they pay back amounts that DEED claims were paid in error, they have been unable to make important purchases because of limited financial resources, they have been unable to contribute to their families' financial needs, and have been forced to defer their plans for the future, such as attending college.

37. The PUA program covers weeks of unemployment caused by COVID-19 only through December 31, 2020, and it is not clear that retroactive benefits will be available after that date. Accordingly, unless the Court orders preliminary and permanent injunctive relief enjoining DEED from denying otherwise qualified high school students from receiving PUA benefits, Plaintiffs will suffer irreparable harm.

WHEREFORE, Plaintiffs request that the Court grant them relief as follows:

1. Grant a temporary injunction enjoining DEED from continuing to deny PUA benefits to otherwise qualified high school students, pending the conclusion of this case on the merits;

2. Grant a permanent injunction enjoining DEED from denying PUA benefits to otherwise qualified high school students;

3. Awarding Plaintiffs their costs and disbursements incurred in this matter, together with their reasonable attorney's fees pursuant to 42 U.S.C. §1988(b);

4. Awarding them such other and further relief as the Court may deem just and proper.

Dated: October 1, 2020

LATHROP GPM LLP

By: s/ Gregory R. Merz
Gregory R. Merz, Bar No. 0185942
Gregory.Merz@lathropgpm.com

80 South Eighth St.
500 IDS Center
Minneapolis, MN 55402
Telephone: 612.632.3000
Facsimile: 612.632.4444

Attorneys for Plaintiffs