



APPEAL TRIBUNAL DECISION

Docket number: 24 0341 **Hearing date:** July 22, 2024

CLAIMANT:

RAQUEL CORPUZ
[REDACTED]

DETS:

BENEFIT PAYMENT CONTROL UNIT
3301 EAGLE ST, STE 205
ANCHORAGE, AK 99503

CLAIMANT APPEARANCES:

Raquel Corpuz

DETS APPEARANCES:

Christian Parker

CASE HISTORY

The claimant timely appealed an April 5, 2024 determination which reduced benefits under AS 23.20.360, denied benefits under AS 23.20.387, and held the claimant liable for the repayment of benefits and the payment of a penalty under AS 23.20.390.

The issues before the Tribunal are whether the claimant:

- earned wages during the weeks claimed;
- knowingly made a false statement or misrepresentation in connection with the claim; and
- is liable for the repayment of benefits and the payment of a penalty.

FINDINGS OF FACT

The claimant established a claim for unemployment insurance benefits effective July 30, 2023. She was determined to be eligible for a weekly benefit of \$332. The claimant filed certifications to claim benefits each week using the Division's website form set up for that purpose.

The Division's computer system flagged the claimant's benefit claim for review because the claimant was listed on a federal New Hire Report during a period in which she had claimed benefits. The Division sent requests for the claimant's hours of work and wages for the period under review to employers of the claimant. The Division received wage information from employers Juneau Borough School District and TPD Riverview LLC. Both employers provided records of the claimant's hours of work and her wages during the period under review. The investigator examined the claimant's certifications for the same

period and found that she had not reported any work or earnings for fifteen weeks during the period reviewed. The wages reported by the employers are shown on the table below.

Week Ending	Claimant Reported	Employer Name	Employer Reported
August 26, 2023	\$0.00	Juneau School District	\$700.00
September 2, 2023	\$0.00	Juneau School District	\$740.00
September 16, 2023	\$0.00	Juneau School District	\$720.00
October 14, 2023	\$0.00	Juneau School District	\$750.00
October 21, 2023	\$0.00	Juneau School District	\$250.00
October 28, 2023	\$0.00	Juneau School District	\$750.00
November 4, 2023	\$0.00	TPD Riverview LLC	\$327.10
		Juneau School District	\$665.00
November 11, 2023	\$0.00	TPD Riverview LLC	\$854.50
		Juneau School District	\$280.00
November 18, 2023	\$0.00	TPD Riverview LLC	\$1,195.70
		Juneau School District	\$705.00
November 25, 2023	\$0.00	TPD Riverview LLC	\$983.50
		Juneau School District	\$380.00
December 2, 2023	\$0.00	TPD Riverview LLC	\$1,409.90
December 16, 2023	\$0.00	TPD Riverview LLC	\$1,216.70
		Juneau School District	\$620.00
December 23, 2023	\$0.00	TPD Riverview LLC	\$1,459.10
December 30, 2023	\$0.00	TPD Riverview LLC	\$1,665.80
January 6, 2024	\$0.00	TPD Riverview LLC	\$299.40

When the claimant completed a certification to claim benefits for a week, she was required to answer the question, “Did you work for any employers?” for each week claimed. The claimant selected, “No” in answer to this question for each of the weeks under review. If the claimant had answered, “Yes” she would have been prompted to report her hours of work and her earnings for the week being claimed. The claimant stated in the hearing that she intentionally failed to report her work and her wages because she felt the State of Alaska owed her money. The claimant believed she was “frauded” by the State of Alaska because she was hired for a job with the State’s ferry system which she believed turned out to be different from the job was advertised regarding the hourly rate of pay, receipt of a bonus and required training at the claimant’s expense. The claimant made the decision to get her money back from the State by fraudulently claiming unemployment, so she could use the money for her daughter’s education. The claimant stated in the hearing, “You defrauded me, so I will defraud you.”

The claimant was aware that she was required to report work and wages while claiming unemployment benefits. The Division issued determinations in October 2017, December 2017, and September 2021, all of which denied the claimant’s benefits and imposed penalties because the claimant intentionally failed to report wages correctly in order to obtain benefits to which she was not entitled. In addition, the claimant was advised of the requirement to report work and earnings and was advised of the penalties for intentionally misreporting wages in the Division’s Unemployment Insurance Claimant Handbook, which was mailed to the claimant each time she established a claim for benefits. A Handbook was mailed to the claimant on August 8, 2023. The claimant recalled receiving the Handbook.

The Division’s determination issued April 5, 2024 reduced the claimant’s benefits based on the wages the employers reported and required the claimant to repay the overpaid benefits. The Division held the claimant intentionally misrepresented her wages for the weeks under review in order to obtain benefits, and a penalty equal to fifty percent of the benefits received was added. The claimant was denied benefits for 52 weeks after the date the determination was issued as an additional penalty. The length of the penalty denial was based on the fact that the claimant had a previous fraud determination within the past five years.

PROVISIONS OF LAW

AS 23.20.360. Earnings deducted from weekly benefit amount.

The amount of benefits, excluding the allowance for dependents, payable to an insured worker for a week of unemployment shall be reduced by 75 percent of the wages payable to the insured worker for that week that are in excess of \$50. However, the amount of benefits may not be reduced below zero. If the benefit is not a multiple of \$1, it is computed to the next

higher multiple of \$1. If the benefit is zero, no allowance for dependents is payable.

AS 23.20.387. Disqualification for misrepresentation.

- (a) An insured worker is disqualified for benefits for the week with respect to which the false statement or misrepresentation was made and for an additional period of not less than six weeks or more than 52 weeks if the department determines that the insured worker has knowingly made a false statement or misrepresentation of a material fact or knowingly failed to report a material fact with intent to obtain or increase benefits under this chapter. The length of the additional disqualification and the beginning date of that disqualification shall be determined by the department according to the circumstances in each case.
- (b) A person may not be disqualified from receiving benefits under this section unless there is documented evidence that the person has made a false statement or a misrepresentation as to a material fact or has failed to disclose a material fact. Before a determination of fraudulent misrepresentation or nondisclosure may be made, there must be a preponderance of evidence of an intention to defraud, and the false statement or misrepresentation must be shown to be knowing and to involve a material fact.

AS 23.20.390. Recovery of improper payments; penalty.

- (a) An individual who receives a sum as benefits from the unemployment compensation fund when not entitled to it under this chapter is liable to the fund for the sum improperly paid to the individual.
- (f) In addition to the liability under (a) of this section for the amount of benefits improperly paid, an individual who is disqualified from receipt of benefits under AS 23.20.387 is liable to the department for a penalty in an amount equal to 50 percent of the benefits that were obtained by knowingly making a false statement or misrepresenting a material fact, or knowingly failing to report a material fact, with the intent to obtain or increase benefits under this chapter. The department may, under regulations adopted under this chapter, waive the collection of a penalty under this section. The department shall deposit into the general fund the penalty that it collects.

CONCLUSION

The first issue is whether the claimant worked and earned wages during the weeks in question. The claimant agreed that she worked for the Juneau Borough School District and TPD Riverview LLC during the weeks under review and she agreed with the hours and wages reported by both employers. The

Tribunal finds the claimant's benefits for weeks under review must be reduced by the wages she earned, based on the formula laid out in Alaska Statute 23.20.360.

The second issue is whether the claimant knowingly made a false statement or misrepresentation in connection with the claim.

A presumption of intent to defraud arises on the basis of a falsified claim instrument itself. The division's claim form has but one purpose. It is the instrument executed by an individual desirous of receiving unemployment insurance benefits for a specific week. To this end, it contains clear and unambiguous language detailing the material factors upon which the division will base its decision to pay or not to pay. In addition, the individual completing the form certifies as to the truth of the answers and as to his understanding that legal penalties otherwise apply. Thus, once established that a claim instrument has been falsified, the burden of proof shifts to the individual [to establish there was no intent to defraud.]
Morton, Com. Dec. 79H-149, 9/14/79.

The claimant admitted in the hearing that she intentionally did not report her work and earnings because she felt a department of the state owed her money and decided she would get the money back by fraudulently claiming unemployment insurance benefits. The claimant's plan to defraud the Unemployment Insurance Trust Fund is without reason or logic, as unemployment insurance benefits are paid from a fund contributed to by employer and worker taxes and the benefits are payable only if participants meet eligibility criteria set by federal and state laws. The Tribunal must hold that the claimant intentionally misrepresented her eligibility for benefits for the weeks under review.

The third issue is whether the claimant is liable for the repayment of benefits and the payment of a penalty. Alaska Statute 23.20.390 states an individual who receives a sum as benefits from the unemployment compensation fund when not entitled to it under this chapter is liable to the fund for the sum improperly paid to the individual. In addition to the liability under (a) of this section for the amount of benefits improperly paid, an individual who is disqualified from receipt of benefits under Alaska Statute 23.20.387 is liable to the department for a penalty in an amount equal to fifty percent of the benefits that were obtained by knowingly making a false statement or misrepresenting a material fact, or knowingly failing to report a material fact, with the intent to obtain or increase benefits.

The evidence presented shows that the claimant received benefits to which she was not entitled and that she intentionally misrepresented her eligibility in order to receive benefits to which she was not entitled. The Tribunal holds that the claimant is liable to the fund the amount of benefits she received to which

she was not entitled and the payment of a penalty under Alaska Statute 23.20.387.

DECISION

The notice of determination and determination of liability issued in this matter on April 5, 2024 is **AFFIRMED**.

- That portion of the determination holding that the claimant's benefits are reduced due to receipt of wages is **AFFIRMED**. Benefits remain reduced under AS 23.20.360 for the weeks ending August 26, 2023, September 2, 2023, September 16, 2023, October 14, 2023 through December 2, 2023 and December 16, 2023 through January 6, 2024.
- That portion of the determination holding that the claimant committed fraud or intentional misrepresentation is **AFFIRMED**. A disqualification under AS 23.20.387 is imposed, and benefits are denied for weeks ending August 26, 2023, September 2, 2023, September 16, 2023, October 14, 2023 through December 2, 2023, December 16, 2023, through January 6, 2024 and April 6, 2024 through March 29, 2025.
- That portion of the determination holding that the claimant is liable for the repayment of benefits and for the payment of a penalty is **AFFIRMED**. The claimant remains liable to the fund for benefits she received to which she is not entitled and the payment of the assessed penalty.

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.

Dated and mailed on July 23, 2024.



Rhonda Bunes, Appeals Officer