



APPEAL TRIBUNAL DECISION

Docket number: 24 0342 **Hearing date:** May 28, 2024

CLAIMANT:

KRISTINA WOODS
[REDACTED]

CLAIMANT APPEARANCES:

Kristina Woods

DETS APPEARANCES:

None

CASE HISTORY

The claimant timely appealed an April 8, 2024 determination which denied benefits under AS 23.20.375. The issue before the Appeal Tribunal is whether the claimant met the Division's filing requirements.

FINDINGS OF FACT

On February 21, 2024, the claimant established a claim for unemployment insurance benefits effective February 18, 2024. The claimant established her claim by phone, with the assistance of a claim center representative. The claimant was advised she was required to file a certification to claim benefits each week by logging into the MyAlaska website. The claimant was advised she would receive a packet in the mail with instructions. The claimant received a monetary determination by mail, showing the wages her claim was based on and the weekly benefits she was eligible for, but she did not recall receiving any filing instructions. Documents in the record, provided for the hearing by the Division, show an Unemployment Insurance Claimant Handbook was mailed to the claimant on February 22, 2024. The Tribunal take official notice that the handbook, which contains filing instructions, is available on the Division's website.

The claimant recalled that she called the Division's claim center about two weeks after she established her claim and told them she had been advised to file every week but she did not receive filing instructions and she was again advised the instructions would be mailed to her. The claimant did not recall

ever receiving any filing instructions by mail. The claimant attempted to log into her existing MyAlaska account to file and found she was unable to log in. The claimant had used that account to file her Permanent Fund Dividend application. The claimant held that she called multiple times for technical assistance with the MyAlaska website and was finally assisted on April 8, 2024, when she was advised there was a problem with the capitalization of her name in the system. This was corrected and the claimant was able to log in that day.

The claimant called the Division's claim center on April 8, 2024 for assistance with filing and her claim was re-opened effective Sunday of that week, April 7, 2024. The claimant requested to claim all the weeks since the beginning of her claim. Certifications for the past seven weeks were taken by phone that day. The claimant's request to backdate the re-opening of her claim was denied and benefits for weeks ending February 24, 2024 through April 6, 2024 were denied because those weeks ended before the effective date of the claimant's reopened claim.

The claimant could not recall the dates she contacted the Division and the MyAlaska help desk to request assistance. The record was left open until June 11, 2024 for the claimant to provide phone records demonstrating that she made timely attempts to receive assistance and she was not assisted. No records were received from the claimant by the deadline.

PROVISIONS OF LAW

AS 23.20.375. Filing requirements

(a) An insured worker is entitled to receive waiting-week credit or benefits for a week of unemployment for which the insured worker has not been disqualified under, 23.20.362, 23.20.378 - 23.20.387, or 23.20.505 if, in accordance with regulations adopted by the department, the insured worker has

- (1) made an initial claim for benefits; and
- (2) for that week, certified for waiting-week credit or made a claim for benefits.

8 AAC 85.100 Intrastate claim filing: initial claims

- (a) Intrastate initial claims, including new claims, transitional claims, additional claims, and reopened claims, as defined in this chapter, must be filed in accordance with the standards set out in this section. A claimant is not eligible for waiting week credit or benefits for any week before the week in which the initial claim is effective under this section.
- (b) A claimant shall file an initial claim with an unemployment insurance claim center of the division by

- (1) electronic means using an Internet application for benefits, which is the division's preferred and primary method for filing an initial claim;
 - (2) telephone; or
 - (3) mail, with the prior approval of the director.
- (c) An initial claim is effective Sunday of the week in which the claimant
 - (1) files the claim; or
 - (2) requests to file a claim during regular business hours of the division, if the claim cannot be immediately accepted and the claimant files the claim within five business days after the date of that request, or if filed by mail, within 14 calendar days after the date of that request.
- (d) An initial claim filed by mail is effective on Sunday of the week of the postmark date of the mailing of the completed claim form.
- (e) Repealed 3/25/2007.
- (f) A claimant who is in continued claim status at the end of a benefit year must file a new claim to begin a new benefit year. An extended benefit claimant who is in continued claim status at the end of the benefit year, or at the end of any quarter following the benefit year, must file a new claim to determine eligibility for regular benefits in a new benefit year. The director will send a notice of the requirement to file a new claim to the claimant at least two weeks before the end of the benefit year or the end of the applicable calendar quarter.
- (g) A transitional claim, or any new claim filed during a series of continued claims after the end of a benefit year, is effective on Sunday of the week immediately following the end of the benefit year or the applicable calendar quarter, if the claim is filed no later than seven calendar days after the end of the benefit year or applicable calendar quarter. The director shall extend the time allowed for filing the claim if the failure to file the claim earlier was caused by an oversight or error of the division.
- (h) A claimant shall file an additional claim to begin a new series of continued claims in a benefit year if the claimant had intervening work and
 - (1) stopped filing continued claims; or
 - (2) earned wages for a week greater than one and one-third times the weekly benefit amount plus \$50.
- (i) An claimant filing an additional claim shall provide
 - (1) the name and address of the claimant's last employer;
 - (2) the dates of employment; and
 - (3) the reason for separation from that employer.
- (j) A claimant who stopped filing continued claims for a reason other than work shall file a reopened claim to begin a new series of continued claims in the same benefit year. A claimant filing a reopened claim shall provide the reason why the claimant stopped filing continued claims.

CONCLUSION

Alaska Statute 23.20.375 requires that in order to be eligible for benefits for a week of unemployment, a claimant must establish an initial claim and must file certifications to claim benefits. The claimant in this case established an initial claim effective February 21, 2024 and she did not file certifications for the first seven weeks of her claim.

In Olson, Com. Dec. No. 9122650, January 29, 1992, the Commissioner of Labor stated, in part:

The regulation is clear that any initial claim must bear the date it is filed. There is no provision for backdating such claims at all, for good cause or otherwise.

Regulation 8 AAC 85.100 holds that an initial claim is effective Sunday of the week in which it is established. It also holds that a claimant must re-open a claim after a period of not filing certifications. The claimant's claim closed because she did not file certifications to claim benefits. The claimant re-opened her claim on April 8, 2024, and that initial claim was made effective Sunday, April 7, 2024. As held by the Commissioner in Olson, there is no provision in statute or regulation for backdating a claim.

In Scott, Com. Dec. 87H-EB-162, June 18, 1987, the Commissioner held in part:

Neither the Appeal Tribunal nor I have any jurisdiction to hold contrary to the clear wordage of the law.

The claimant was given the opportunity to provide phone records showing she made reasonable and timely attempts to get help with filing timely certifications which would have kept her claim open. The claimant did not provide phone records. The Tribunal cannot conclude the claimant was prevented by circumstances beyond her control from getting assistance to file weekly certifications for seven weeks. The Tribunal finds the claimant's benefits for weeks which ended before her claim was reopened effective April 7, 2024 were properly denied.

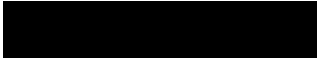
DECISION

The determination issued on April 8, 2024 is **AFFIRMED**. Benefits remain **DENIED** for the weeks ending February 24, 2024 through April 6, 2024.

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 June 13, 2024.

A solid black rectangular box used to redact the signature of the Appeals Officer.

Rhonda Buness, Appeals Officer