



APPEAL TRIBUNAL DECISION

Docket Number: P25 0010 **Hearing Date:** March 9, 2026

CLAIMANT:

FRED SCHWAN
[REDACTED]

CLAIMANT APPEARANCES:

Fred Schwan

DETS APPEARANCES:

None

CASE HISTORY

The claimant appealed a July 20, 2020, determination which denied Pandemic Unemployment Assistance (PUA) benefits under the CARES Act, Public Law 116-136. The issue before the Appeal Tribunal is whether the claimant meets the eligibility requirements of the Act.

A hearing was held January 12, 2026, for the sole purpose of deciding if the claimant's appeal could be accepted as timely filed. The claimant's appeal was found to be timely in a decision issued January 13, 2026. A continued hearing was scheduled for January 27, 2026. The claimant did not attend the hearing due to circumstances beyond his control. The hearing was reopened in a decision issued February 19, 2026.

FINDINGS OF FACT

The claimant recalled filing a claim for unemployment insurance benefits at the beginning of the COVID-19 pandemic. The claimant recalled that he was unemployed at that time because he worked for a concrete contractor and very little concrete work can be done during the winter and early spring months. The claimant held that his employer did lose some work due to the COVID-19 pandemic, but it was not established that the claimant was out of work at any point during the period under review for a reason directly related to the COVID-19 pandemic. He recalled that a friend helped him apply for unemployment benefits online, and that he gave his friend his personal information which was needed to complete the application. The claimant recalled that he was denied regular unemployment benefits because he did not meet wage history requirements.

A claim for federal Pandemic Unemployment Assistance (PUA) benefits was established on June 17, 2020, and made effective March 15, 2020. The Division's records show the claim was established using the Division's website application. The claimant's full name, social security number and date of birth were provided on the claim application. A box was checked indicating the claimant did not have a driver's license or a state identification card. The phone number, email address and mailing address provided on the application were those of the claimant's friend who helped him apply for benefits earlier that year. The claimant held that he did not give his friend permission to apply for Pandemic Unemployment Assistance benefits for him and he had no knowledge that she had applied in his name. Certifications were filed to claim benefits for weeks ending March 21, 2020, through July 25, 2020. Benefits were deposited to a Green Dot bank debit card, including additional \$600 weekly payments from Federal Additional Compensation program that was active at the time.

On July 22, 2020, the Division denied the claimant's benefits, beginning with the week ending March 21, 2020, because it was determined that the claimant was working and he had not reported any work or earnings when claiming benefits. A Division representative noted in the claimant's file that identification theft was suspected. All PUA and FAC benefits that were paid to the claimant were considered to have been overpaid. Overpayment notices were mailed to the address of record, but the claimant did not receive the notices, as they were sent to his friend's address.

The claimant established a claim for unemployment insurance benefits effective November 2, 2025. The claimant was found to be eligible for unemployment benefits, and he began filing weekly certifications expecting to receive benefits. The claimant then learned that the benefits he was eligible for were being offset to repay the overpaid PUA and FAC benefits. This was the first time the claimant had heard about the pandemic benefits. The claimant agreed that he was in fact working during much of the time the benefits were claimed.

The claimant contacted his friend by phone when he learned of the PUA and FAC overpayment and the friend denied that she had applied for or received benefits on his behalf. The claimant's friend told the claimant she would contact the Division to rectify the matter. The record does not contain any indication that the claimant's friend contacted the Division about the claimant's benefits. The claimant also contacted Green Dot Bank and attempted to get information about the account into which his benefits had been deposited, but the card had expired and the claimant was not able to get any information about the account holder. The claimant provided the Division with a copy of his driver's license and appealed the determination holding that he should repay the benefits. The claimant held that he did not apply for PUA or FAC benefits, he did not grant his friend permission to apply for those

benefits on his behalf, and he did not receive or benefit from any of the benefits.

STATUTORY PROVISIONS

AS 23.20.080 Federal-state cooperation

(a) In the administration of this chapter, the department shall cooperate, to the extent consistent with this chapter, with the Secretary of Labor, and shall take action through the adoption of regulations, administration methods, and standards that is necessary to obtain for this state and its citizens all advantages available under 26 U.S.C. 3303 and 3304 (Internal Revenue Code) and the Wagner-Peyser Act, as amended. The department shall comply with the regulations of the Secretary of Labor relating to the receipt or expenditure by this state of money granted under these federal laws and shall make reports in the form and containing the information which the Secretary of Labor requires. The department shall comply with the provisions which the Secretary of Labor may from time to time find necessary to assure the correctness and verification of the reports. The department may cooperate with every agency of the United States charged with the administration of an unemployment insurance law.

The CARES Act of 2020, Public Law 116-136, Title II, Sec. 2102 Pandemic Unemployment Assistance

(3) COVERED INDIVIDUAL.—The term “covered individual”—

(A) means an individual who—

(i) is not eligible for regular compensation or extended benefits under State or Federal law or pandemic emergency unemployment compensation under section 2107, including an individual who has exhausted all rights to regular unemployment or extended benefits under State or Federal law or pandemic emergency unemployment compensation under section 2107; and

(ii) provides self-certification that the individual—

(I) 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—

(aa) the individual has been diagnosed with COVID-19 or is experiencing symptoms of COVID-19 and seeking a medical diagnosis;

(bb) a member of the individual's household has been diagnosed with COVID-19;

(cc) the individual is providing care for a family member or a member of the individual's household who has been diagnosed with COVID-19;

(dd) a child or other person in the household for which the individual has primary caregiving responsibility is unable to attend school or another facility that is closed as a direct result of the COVID-19 public health emergency and such school or facility care is required for the individual to work;

(ee) the individual is unable to reach the place of employment because of a quarantine imposed as a direct result of the COVID-19 public health emergency;

(ff) the individual is unable to reach the place of employment because the individual has been advised by a health care provider to self-quarantine due to concerns related to COVID-19;

(gg) the individual was scheduled to commence employment and does not have a job or is unable to reach the job as a direct result of the COVID-19 public health emergency;

(hh) the individual has become the breadwinner or major support for a household because the head of the household has died as a direct result of COVID-19;

(ii) the individual has to quit his or her job as a direct result of COVID-19;

(jj) the individual's place of employment is closed as a direct result of the COVID-19 public health emergency; or

(kk) the individual meets any additional criteria established by the Secretary for unemployment assistance under this section; or

(II) is self-employed, is seeking part-time employment, does not have sufficient work history, or otherwise would not qualify for regular unemployment or extended benefits under State or Federal law or pandemic emergency unemployment compensation under section 2107 and meets the requirements of subclause (I); and

(B) does not include—

(i) an individual who has the ability to telework with pay; or

(ii) an individual who is receiving paid sick leave or other paid leave benefits, regardless of whether the individual meets a qualification described in items (aa) through (kk) of subparagraph (A)(i)(I).

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 CARES Act, Public Law 116-136, Title II, Sec. 2102 Pandemic Unemployment Assistance defines a “covered individual” as a person who is not eligible for unemployment benefits under any State of Federal program and who is unemployed because one of a list of reasons related to the COVID-19 pandemic. The Division’s determination held that the claimant was not eligible for benefits because he was not unemployed for a reason that would make him eligible for PUA benefits.

The claimant held that he was unemployed during some of the weeks under review because the weather did not permit concrete work and when the weather permitted work, the claimant returned to work and worked fairly steadily. The Tribunal finds the claimant was not eligible for PUA or FAC benefits for the weeks under review. The benefits were properly denied.

Denying the claimant’s eligibility for benefits means that all benefits paid on the PUA claim are overpaid. Claimants are required to repay overpaid benefits under AS 23.20.390. The statute allows that a claimant can be waived from the requirement to repay overpaid benefits if the claimant received the benefits through no fault of his own and if repayment would be against equity and good conscience. The Division’s record does not reflect that the Division has considered whether the claimant is eligible for a waiver of the requirement to repay benefits. The Tribunal will remand the matter to the Division to issue a determination regarding the claimant’s eligibility to be waived from the requirement to repay overpaid benefits, including any additional fact finding required to make that determination. The claimant will have new appeal rights when that determination is issued.

DECISION

The determination issued on July 20, 2020, is **AFFIRMED**. The claimant is not eligible for benefits from the Pandemic Unemployment Assistance (PUA) or Federal Additional Compensation (FAC) programs for weeks ending March 21, 2020 through June 20, 2020.

The matter is **REMANDED** to the Division for a determination of the claimant’s eligibility for a waiver of the requirement to repay overpaid benefits under AS 23.20.390.

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

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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 March 13, 2026.



Rhonda Bunes, Appeals Officer