



APPEAL TRIBUNAL DECISION

Docket number: 26 0097 **Hearing dates:** March 24, 2026
May 1, 2026

CLAIMANT:

DEMOSTHENES MACARAEG
[REDACTED]

CLAIMANT APPEARANCES:

Demosthenes Macaraeg

DETS:

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

DETS APPEARANCES:

Tamara Carter

CASE HISTORY

The claimant appealed a June 28, 2022, determination which denied benefits under AS 23.20.378 and 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.

A hearing was held March 4, 2026, for the sole purpose of determining if the claimant's appeal was timely filed. The appeal was accepted as timely filed in a decision issued March 5, 2026.

The issues before the Tribunal are whether the claimant:

- was available for work during a period of travel;
- 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 August 2, 2020. The Division mailed an Unemployment Insurance Handbook to the claimant. The claimant began filing weekly claims for benefits using the Division's website certification form. He received unemployment insurance benefits as well as federal COVID-19 extended benefits and additional weekly payments from the Federal Pandemic Unemployment Compensation program and the Lost Wages Assistance program.

In January 2021, a routine review of records collected by the Division showed the claimant connected to the Division's website to file benefits from locations in Hawaii during a period when he reported both his mailing address and physical address were in Washington. On further review, the Division's investigator found throughout his claim the claimant had connected to the Division's website from many locations including Seattle, Washington; Las Vegas, Nevada; Los Angeles, California; Tucson, Arizona; Minneapolis, Minnesota; and locations in Canada and Australia. The investigator knew from experience that some of the claimant's location information might not be extremely reliable because it came from nationwide cell service providers. The investigator attempted to contact the claimant by phone and by mail to get more information, but he did not respond.

When the claimant filed certifications to claim benefits, he was required to report each week if he had traveled or had relocated. The claimant was also required to report his mailing and physical addresses. The investigator noted that the claimant reported to the Division that he traveled on May 29, 2021, to relocate from Seattle, Washington to Las Vegas, Nevada. The Division's claim center allowed the claimant's benefits for that week on a holding that he was available for five working days in the week. The investigator noted that the claimant did not report any other travel to the Division when he filed certifications for the weeks under review.

The investigator issued a determination on June 28, 2022, holding that the claimant was not available for work due to travel for weeks ending September 26, 2020, through January 16, 2021; January 30, 2021, through May 22, 2021; June 12, 2021; and July 3, 2021, through August 14, 2021. The investigator determined the claimant intentionally misrepresented information when he filed certifications in order to receive benefits. Benefits were denied for weeks ending August 8, 2020; August 29, 2020; September 26, 2020, through January 16, 2021; January 30, 2021, through May 22, 2021; and June 12, 2021, through August 14, 2021. A monetary penalty equal to fifty percent of the benefits received in the weeks under review, including the additional weekly amounts from the federal COVID-19 programs, was imposed. The determination disqualified the claimant from benefit eligibility for weeks ending July 2, 2022, through June 24, 2023.

In the hearing, the claimant initially denied that he had traveled in most of the weeks listed in the Division's determination. The hearing was continued to allow the parties to submit additional documents that would establish the claimant's location. One document provided by the claimant led the Division's investigator to inquire with U.S. Customs and Border Control about the claimant's border crossing records. That agency's records established the claimant was in The Philippines from December 18, 2020, through May 21, 2021. Additionally, the investigator held that the records received showed the claimant traveled from Hawaii to Los Angeles on May 24, 2021, and from Los Angeles to Las Vegas on May 25, 2021. The investigator held that she

intends to issue a separate redetermination of the Division's June 28, 2022, determination, holding the claimant was in fact not eligible for benefits in the week ending May 29, 2021.

The claimant provided bank records that purported to show that he was located in the area which he had provided to the Division as both his physical and mailing addresses. However, after the investigator provided copies of the records which she obtained directly from the claimant's bank via a subpoena, the claimant admitted he had falsified the documents in order to help with his appeal. The claimant agreed that he had traveled during all of the weeks under review in the Division's determination. The claimant held that he was homeless at the time and staying with family members, so he relocated frequently to avoid staying with any family members for too long. The claimant further held that he did not report his travel because he believed he would be denied benefits if he reported traveling and he needed the benefits because work was hard to find during the pandemic.

PROVISIONS OF LAW

AS 23.20.378: Able to work and available for suitable work.

- (a) An insured worker is entitled to receive waiting-week credit or benefits for a week of unemployment if for that week the insured worker is able to work and available for suitable work ...

8 AAC 85.350: Able to work and available for suitable work: general provisions.

- (a) A claimant is considered able to work if the claimant is physically and mentally capable of performing work under the usual conditions of employment in the claimant's principal occupation or other occupations for which the claimant is reasonably fitted by training and experience.
- (b) A claimant is considered available for suitable work for a week if the claimant
 - (1) registers for work as required under 8 AAC 85.351;
 - (2) makes independent efforts to find work as directed under 8 AAC 85.352 and 8 AAC 85.355;
 - (3) meets the requirements of 8 AAC 85.353 during periods of travel;
 - (4) meets the requirements of 8 AAC 85.356 while in training;
 - (5) is willing to accept and perform suitable work which the claimant does not have good cause to refuse;
 - (6) is available, for at least five working days in the week, to respond promptly to an offer of suitable work; and
 - (7) is available for a substantial amount of full-time employment.

8 AAC 85.353: Able to work and available for suitable work: travel claims.

- (a) The requirements of this section apply to any period during which a claimant travels outside the customary commutable area in which the claimant resides, unless the claimant travels while exempted from availability requirements under AS 23.20.378(a) or in connection with training approved under AS 23.20.382. For purposes of this section, a customary commutable area means an area where a claimant customarily commutes to and from work each day.
- (b) A claimant is available for work each week while traveling only if the claimant is traveling to
 - (1) search for work and is legally eligible to accept work in the area of travel;
 - (2) accept an offer of work that begins no later than 14 days after the claimant's departure; or
 - (3) establish or return to a residence immediately following the claimant's discharge from the armed forces.
- (c) A claimant who travels in search of work must be legally eligible to accept work and make reasonable efforts to find work each week in the area of the claimant's travel, by
 - (1) contacting in person an employment office;
 - (2) making at least two in-person employer contacts;
 - (3) registering in person with the local chapter of the claimant's union that has jurisdiction over the area of the claimant's travel; a claimant who has previously registered with the local union that has jurisdiction over the area of the travel is available for work if the claimant makes contacts as required by the union to be eligible for dispatch in the area of the travel; or
 - (4) attending in person a pre-arranged job interview.
- (d) A claimant is not available for work after the claimant travels for more than four consecutive calendar weeks to search for work. A claimant is not available for work after the claimant travels for more than seven days if traveling to
 - (1) accept an offer of work that begins 14 days after the claimant's departure; or
 - (2) establish or return to a residence immediately following the claimant's discharge from the armed forces.

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 was available for work during a period of travel. 8 AAC 85.353(a) provides that the requirements of this section apply to any period during which a claimant travels outside the area in which the claimant resides. 8 AAC 85.353(b) provides that a claimant who travels away from their area of residence during their customary workweek is considered available for work only if they travel for one of the three allowable reasons stated in section (c). Furthermore, under 8 AAC 85.350, a claimant must be available for work at least five working days of their customary workweek. The Division's investigator denied benefits based on evidence which showed the claimant was located in areas other than the area he reported to the Division was his physical location. The claimant admitted he traveled in the weeks under review.

The Tribunal finds the claimant was not available for work in the weeks ending September 26, 2020, through January 16, 2021; January 30, 2021, through May 22, 2021; June 12, 2021; and July 3, 2021, through August 14, 2021.

The second issue is whether the claimant knowingly made an intentional misrepresentation in order to receive benefits. The claimant held that he did not report his travel because he was homeless and staying with family and he did not want to lose benefits because it was hard to find work at that time.

It is not necessary for the Division to show that the claimant had actual malicious intent to receive benefits in order to find intentional misrepresentation. All that is required is to establish that the claimant withheld information without a basis for the information reported or confidence in the accuracy of the filing.

In Lightle v State of Alaska, Real Estate Commission, October 20, 2006, the Alaska Supreme Court held, “fraudulent refers solely to the maker’s knowledge of the untrue character of his representation.” The Court held that to be fraudulent, it is necessary that a misrepresentation be made with the maker’s purpose to induce the recipient to act in reliance upon the misrepresentation. The Court noted, “this provision does not require the maker of a false statement to act with the specific ‘intent to deceive’; rather it requires the maker to expect that other’s conduct will be influenced.”

The claimant in this case failed to report travel and relocation, incorrectly answering the simple, straightforward questions on the certification form. The claimant knew that the Division would rely on the answers on the certification to determine eligibility for benefits, so the claimant’s conduct meets the standard to establish fraud, as set out by the Court in Lightle. Based on the facts in this case, including the claimant’s admission that he concealed travel, including travel outside the country, the Tribunal must conclude that the claimant intentionally misrepresented material facts in the weeks ending August 8, 2020; August 29, 2020; September 26, 2020, through January 16, 2021; January 30, 2021, through May 22, 2021; and June 12, 2021 through August 14, 2021.

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 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.

The claimant held that he could not afford to repay the benefits and requested any relief that was available. The Commissioner of the Department of Labor and Workforce Development held in Cardwell, Com. Dec. 24 0822, April 30, 2025:

Regarding the claimant's request to reduce the monetary penalty, AS 23.20.390(f) provides that once misrepresentation has been established, the individual is liable to the Department for a penalty in an amount equal to 50 percent of the benefits that were improperly paid. The statute does not provide a method for reducing the penalty amount below 50 percent.

Although Cardwell was regarding a claimant's failure to report wages, the principle is the same here. The evidence presented shows that the claimant received benefits to which he was not entitled and that he intentionally misrepresented his eligibility in order to receive the benefits. The Tribunal holds that the claimant is liable to the fund for the amount of benefits he received to which he was not entitled and the payment of a penalty under Alaska Statute 23.20.387.

The claimant will have separate appeal rights when the investigator issues a redetermination of the claimant's eligibility for benefits for the week ending May 29, 2021.

DECISION

The notice of determination and determination of liability issued in this matter on June 28, 2022, is **AFFIRMED**.

- That portion of the determination holding that the claimant was not available for work during a period of travel is **AFFIRMED**. Benefits remain reduced under AS 23.20.378 for the weeks ending September 26, 2020, through January 16, 2021; January 30, 2021, through May 22, 2021; June 12, 2021; and July 3, 2021, through August 14, 2021.
- 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 8, 2020; August 29, 2020; September 26, 2020, through January 16, 2021; January 30, 2021, through May 22, 2021; and June 12, 2021, through August 14, 2021.
- 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 he

received to which he 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 May 5, 2026.


Rhonda Bunes, Appeals Officer