ALASKA DEPARTMENT OF LABOR
AND WORKFORCE DEVELOPMENT
DIVISION OF EMPLOYMENT AND TRAINING SERVICES
P.O. BOX 241767
ANCHORAGE, ALASKA 99524

APPEAL TRIBUNAL DECISION

Docket number: 26 0600 **Hearing date:** October 23, 2026

CLAIMANT:

MARY JOHNSON
[redacted]

CLAIMANT APPEARANCES:	**DETS APPEARANCES:**
Mary Johnson	None

CASE HISTORY

The claimant timely appealed an October 6, 2026, determination which denied benefits under AS 23.20.378. The issue before the Appeal Tribunal is whether the claimant was available for work.

FINDINGS OF FACT

The claimant established a claim for unemployment insurance benefits effective May 24, 2026.

On September 4, 2026, the Division mailed a notice to the claimant's address of record, notifying the claimant that she was required to participate in the Division's reemployment eligibility service assessment (RESEA) program. The notice advised the claimant to schedule and attend an in-person reemployment eligibility assessment interview and complete any assigned activities by September 25, 2026, or benefits would be denied. The claimant did not recall receiving the Division's notice. The claimant is not aware of any problems with the delivery of her mail.

On September 29, or 30, 2026, the claimant saw a notice on the Division's website that there was a problem with her claim. The claimant called the Division and learned that she had missed a deadline to participate in required reemployment services. The claimant was advised to go to her local job center to make an appointment. The claimant went to the job center on October 2, 2026. No appointments were available that day. The claimant was

advised the soonest available appointment would be October 12, 2026; however, she was later able to get an appointment for October 5, 2026, and she completed the program requirements on that day.

PROVISIONS OF LAW

AS 23.20.378 provides:

(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:

(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 85.355:

The director may review a claimant's registration for work and availability for work at any time during the benefit year. As part of the review, the director shall consider the claimant's training, experience, length of unemployment, plan for obtaining work, barriers to reemployment, and work prospects. On the basis of the review, the director may assign to the claimant new suitable occupation codes, change the claimant's registration for work, assign the claimant to reemployment services or instruct the claimant to make independent attempts to find work that are appropriate for the occupation and labor market. If the claimant fails

without good cause to participate in the review, participate in reemployment services as directed by the director, or follow instructions of the division to help the claimant find suitable work, the director shall determine the claimant was not available for work.

8 AAC 85.357 provides:

(a) A claimant is not available for work for any week in which the claimant fails to participate in reemployment services if the claimant has been determined by the director likely to exhaust regular benefits and need reemployment services, unless the claimant has
  (1) completed the reemployment services; or
  (2) has good cause under (b) of this section for failure to participate in the reemployment services.

(b) The director shall find that a claimant has good cause for failure to participate in reemployment services or related services under (a) of this section if the cause would lead a reasonable and prudent person not to participate in those services and the claimant took the actions that a reasonable and prudent person would take in order to participate. A claimant no longer has good cause when the cause preventing participation ends. Good cause includes
  (1) circumstances beyond the claimant's control;
  (2) circumstances that waive the availability for work requirement in AS 23.20.378;
  (3) attendance at training approved under AS 23.20.382 and 8 AAC 85.200; and
  (4) referral to reemployment services that the director determines was made incorrectly.

CONCLUSION

Regulation 8 AAC 85.357, above, holds that a claimant is not available for work in any week in which the claimant fails to participate in reemployment services, unless the failure to participate is caused by circumstances beyond the claimant's control. The claimant in this case did not participate in reemployment services during the period under review because she did not receive the notice directing her to participate.

There is a rebuttable presumption that a notice placed in the mail will be timely delivered. Rosser, Com. Dec. 83H-UI-145, June 15, 1983. Only if it can be shown that some circumstances occurred which prevented or reasonably can be shown to have prevented the delivery of the mail can the presumption of timely delivery be overcome. Whitlock, Com. Dec. No. 9229240, March 17, 1993.

The Division satisfied its obligation to notify the claimant of the requirement to participate in reemployment services. The claimant has not overcome the presumption that the mail was delivered timely and has not established that she failed to participate in reemployment services in the week ending September 26, 2026, due to circumstances beyond her control.

However; the claimant attempted to complete the program in the week ending October 3, 2026. That the Division could not accommodate the claimant with an appointment in that week was a circumstance beyond the claimant's control. The Tribunal finds the claimant was available for work in the week ending October 3, 2026.

DECISION

The determination issued on October 6, 2026, is **MODIFIED**. Benefits remain **DENIED** for the week ending September 26, 2026. Benefits are **ALLOWED** for week ending October 3, 2026, if the claimant is otherwise eligible.

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 October 28, 2026.

[redacted]
Rhonda Buness, Appeals Officer