

**ALASKA DEPARTMENT OF LABOR
AND WORKFORCE DEVELOPMENT
OFFICE OF THE COMMISSIONER
PO BOX 111149
JUNEAU, ALASKA 99811-1149**

**DECISION OF THE COMMISSIONER OF LABOR
Docket No. 22 0791**

IN THE MATTER OF:

CLAIMANT:

KATHRYN LAKODUK
[REDACTED]

DETS:

SUSAN NICHOLS-BPC
[REDACTED]

The claimant appealed to the Department from a Tribunal decision issued October 5, 2022, which affirmed the Division's determinations denying benefits under AS 23.20.378, AS 23.20.360, AS 23.20.387 and imposed penalties under AS 23.20.390. We also note, regulations 8 AAC 85.350 through 8 AAC 85.353 are under the authority of AS 23.20.378.

We have reviewed the entire case including the audio recording. A brief synopsis of the facts are as follows. In 2021, the claimant filed claim certifications for the weeks ending January 2, 2021 through March 6, 2021. The Division received information from CCI Industrial that showed hours worked and wages paid for the weeks ending February 13, 2021, February 20, 2021, and March 6, 2021. The claimant's weekly claim certifications included in the Division's documents (exhibit 1, page 97 through exhibit 1, page 108) showed the claimant did not mark that she was employed or provide wages for any of the three weeks listed.

In March 2022, the claimant filed a new claim application for Alaska unemployment benefits. She established her new claim while she was physically located in Arizona. On the new claim application, the claimant provided her Alaska address as both her mailing and physical address. The claimant stated she did not think it would be a big deal to provide only her Alaska address because she was still performing two work searches each week, and she was only in Arizona temporarily.

The claimant then filed weekly claim certifications to obtain benefit payments for the weeks ending March 26, 2022 through July 2, 2022, while still located in Arizona. The claimant never reported she traveled or moved, and she never updated her physical address or location.

The claimant has filed for unemployment benefits, on and off, since at least 2005 and has been mailed numerous unemployment handbooks. The claimant received the handbook but stated she had not read it thoroughly. The unemployment insurance handbook, (exhibit 1, page 65) informs claimants they are in travel status any time they travel outside the area in which they reside. The claimant maintained a residence in Alaska, she has only provided Alaskan addresses for unemployment

since 2007, and she continued to look for work in Alaska. The claimant's primary residence was clearly in Alaska. Although, the claimant did provide a mailing address in Maryland in 2006.

Kellicut, Comm'r Dec. 20 0197, July 20, 2020, provides "[W]e have consistently held that the reading of division information, including the claimant handbook, to be a claimant's responsibility, which a claimant may ignore at her own peril." The claimant's failure to thoroughly read the claimant handbook was unfortunate but such an excuse does not negate her responsibility to provide accurate information when filing for benefits. Unfortunately, the claimant chose not to read her handbook or take steps to seek out available information to ensure she was meeting the requirements of the program.

In her appeal to us, the claimant provided the following, 1) She questioned the accuracy of the IP addresses. 2) She questioned an unspecified week of wages. 3) She was concerned about only having two days, "to get this together."

As there was no dispute the claimant was filing for benefits while outside of Alaska, the specific locations of the IP addresses are a moot point. The Division records included significant evidence from other sources to support its conclusion the claimant was filing for benefits from Arizona.

The claimant did not indicate which week of wages she questioned. A review of the Division's documents showed unreported earnings for the weeks ending February 13, 2021, February 20, 2021, and March 6, 2021. As there was no evidence to the contrary, the available evidence supports the denial of benefits for those weeks.

Finally, the Tribunal decision mailed to the claimant on October 5, 2022, included instructions on filing an appeal to the Commissioner. The instructions stated the appeal request must be in writing and fully explain the reason for the appeal. On October 18, 2022, the claimant sent her request for further appeal and requested a 30-day extension to seek legal representation and to accommodate her work schedule. When the claimant had not provided any further information by November 25, 2022, she was contacted and provided an additional two days to respond. The claimant had 44 days from the date she filed her appeal to prepare her written statement.

8 AAC 85.353(b) provides 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 three allowable reasons. The claimant did not travel to Arizona for one of the allowable reasons.

The Division's Benefit Policy Manual AA 150.05-5 states, "When a claimant relocates out of state, they must register for work in the state in which they are residing." AA 160.3-2(1) states, "A claimant who files a claim for unemployment insurance benefits against the state of Alaska in an agent state must register for work in accordance with the laws, regulations and procedures of that state." If a claimant properly

registers, the claimant is eligible under 8 AAC 85.351(a). The claimant was not properly registered for work in Arizona. As the claimant did not travel for one of the allowable reasons and did not register for work as required, she did not meet the availability requirements of AS 23.20.378.

In citing Morton, Com. Dec. 79H-149, 9/14/79, the Tribunal held that the claimant did not overcome the presumption of intent to defraud inherent in the falsified claim form itself. Gillen, Com. Dec. 9121667, December 6, 1991, refers to a long-standing Department precedent that simply contending a mistake or oversight fails to rebut the presumption of fraud and allowing this kind of excuse would make the fraud provision “a dead letter.”

The Tribunal concluded the claimant failed to report three weeks of earnings, failed to report travel, and found she did not overcome the presumption of intent to defraud inherent in the falsified claim form itself. The claimant was found to have committed intentional misrepresentation under AS 23.20.387, which is subject to penalties under AS.23.20.390. We agree with the Tribunal’s conclusion and accept the decision in its entirety.

The Division Appeal Tribunal decision issued on October 5, 2022, is therefore **AFFIRMED**.

FURTHER APPEAL may be had from this decision by filing a Notice of Appeal in Superior Court for the State of Alaska within 30 days from the date of mailing of this decision as provided in AS 23.20.445, AS 44.62.560-570 and the Rules of Appellate Procedure of the State of Alaska. Unless an appeal is filed within the said 30-day period, this decision is final.

Dated and Mailed on December 05, 2022.



**DR. TAMIKA L. LEDBETTER
COMMISSIONER**