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**APPEAL TRIBUNAL DECISION**

**Docket number:** 19 1167 **Hearing date:** December 13, 2019

**CLAIMANT:**

AMAJE VOLIVA

**CLAIMANT APPEARANCES: DETS APPEARANCES:**

Amaje Voliva None

 **CASE HISTORY**

The claimant timely appealed a November 25, 2019 redetermination which denied benefits under AS 23.20.378 and 8 AAC 85.350-351. The issue is whether the claimant met the registration requirements of the regulation in order to be considered available for full-time work.

 **FINDINGS OF FACT**

On November 5, 2019, the claimant established a claim for unemployment benefits effective November 3, 2019. The claimant could not recall if he read the instruction on the claim application form that advised of the requirement to post a résumé online on the Division’s Alaska Labor Exchange system (ALEXsys) website within seven days of establishing his claim, or benefits would be denied.

On November 6, 2019, the Division mailed a notice to the claimant’s address of record, advising him of the requirement to post a résumé online. The claimant could not recall if he received the notice, but he did not know why it would not have been delivered by the Post Office.

The claimant was able to work full time during the weeks under review, but he wasn’t actively looking for work because his car was broken down and he was focused on getting it fixed so he could use it to commute if work was offered. The claimant’s car was repaired on November 21, 2019.

The claimant learned his benefits had been denied and he contacted the Division and was advised of the requirement to post his résumé online. The claimant posted his résumé online on November 25, 2019.

 **PROVISIONS OF LAW**

**AS 23.20.378 provides, in part:**

 (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 provides, in part:**

 (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 85.351 provides:**

(a) a claimant who files a claim for benefits in a state that acts as agent in taking claims for benefits held by this state shall register for work in accordance with the statutes, regulations, and procedures of the state in which the claim is filed.

(b) a claimant who files for benefits in this state shall register for work as required by AS 23.20 and this section. A claimant shall register for work

 (1) repealed 3/4/2006;

(2) in person or by mail at the employment service office of the division that is nearest the claimant’s residence;

(3) by telephone, if permitted by the director; or

(4) at the department’s website by electronic means, if available from the division.

 (c) The director shall find that a claimant is not available for work for any week ending before completion of a placement registration for work. To be considered available for work from the date of the initial claim, a claimant must complete a placement registration within seven days after filing the initial claim. If the placement registration is not completed within seven days, the claimant is considered available for work the week the placement registration is completed.

(g) The director may defer registration for work for a claimant who is

(1) temporarily unemployed with a definite date to return to full-time work within 45 days after the date the claimant files the initial claim;

(2) unemployed due to a labor dispute;

(3) traveling immediately following the filing of the initial claim, for the purpose of relocating outside of this state; upon arrival in the new area of residence, the claimant shall register for work as required in (a) of this section;

(5) normally hired through a trade union, if the union furnishes information when requested by the director to verify the claimant's current membership and eligibility for dispatch;

(8) under an approved waiver of availability under AS 23.20.378 or AS 23.20.382.

(i) If the director does not require the claimant to have a placement registration, the director shall inform the claimant that the placement registration requirement has been deferred and advise the claimant of available employment services.

# CONCLUSION

The regulation above provides that to be considered available for work, a claimant must register and post a résumé online on the ALEXsys website within seven days after filing the initial claim. If the résumé is not posted online within seven days, the claimant is considered available for work the week the résumé is posted online.

The claimant in this case was aware of the requirement to post a résumé online within seven days of the date the initial claim application date. The claimant posted a résumé online on November 25, 2019.

*Neither the Appeal Tribunal nor I have any jurisdiction to hold contrary to the clear wordage of the law. Scott, Com. Dec. 87H-EB-162, June 18, 1987.*

The circumstances do not establish that the reason for the delay was out of the claimant’s control. Therefore the claimant cannot be considered available for work in the period under review in accordance with Regulation 8 AAC 85.351, above.

 **DECISION**

The redetermination issued on November 25, 2019 is **AFFIRMED**. Benefits are **DENIED** for the weeks ending November 9, 2019 through November 23, 2019.

 **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 December 13, 2019.

 Rhonda Buness, Appeals Officer