****

### APPEAL TRIBUNAL DECISION

**Docket number:** 20 0854 **Hearing date:** July 29, 2020

**CLAIMANT:**

KARESS ROGERS

**CLAIMANT APPEARANCES: DETS APPEARANCES:**

Karess Rogers None

#### CASE HISTORY

The claimant timely appealed a June 29, 2020 determination which denied benefits under AS 23.20.375. The issue before the Appeal Tribunal is whether the claimant met the filing requirements.

#### FINDINGS OF FACT

The claimant’s last work ended mid-March 2020, due to effects of the COVID-19 pandemic. The claimant’s in-home care client had cancelled services and the claimant did not know when the work might resume.

The claimant traveled from her residence to Anchorage on March 26, 2020 to obtain unplanned medical care for her young son. She was quarantined until April 2, 2020. Around that time, a social worker at the hospital suggested the claimant apply for unemployment insurance benefits and gave her a phone number. The claimant tried calling the Division frequently for a week, but was unable to get through due to the volume of calls the Division was receiving. The claimant did not have computer access at that time. She stopped trying to call after a week because she was occupied with her son’s health.

On June 12, 2020, the claimant gained access to a computer at the rehabilitation center where her son was receiving care. She established a claim that day, effective June 7, 2020. On June 22, 2020, the claimant requested that her claim be backdated and made effective April 12, 2020.

#### PROVISIONS OF LAW

**AS 23.20.375. Filing requirements**

(a) An insured worker is entitled to receive waiting-week credit or benefits for a week of unemployment for which the insured worker has not been disqualified under, 23.20.362, 23.20.378 - 23.20.387, or 23.20.505 if, in accordance with regulations adopted by the department, the insured worker has

http://www.legis.state.ak.us/sdimages/tab.gif(1) made an initial claim for benefits; and

http://www.legis.state.ak.us/sdimages/tab.gif(2) for that week, certified for waiting-week credit or made a claim for benefits.

**8 AAC 85.100 Intrastate claim filing: initial claims**

(a) Intrastate initial claims, including new claims, transitional claims, additional claims, and reopened claims, as defined in this chapter, must be filed in accordance with the standards set out in this section. A claimant is not eligible for waiting week credit or benefits for any week before the week in which the initial claim is effective under this section.

(b) A claimant shall file an initial claim with an unemployment insurance claim center of the division by

(1) electronic means using an Internet application for benefits, which is the division's preferred and primary method for filing an initial claim;

(2) telephone; or

(3) mail, with the prior approval of the director.

(c) An initial claim is effective Sunday of the week in which the claimant

(1) files the claim; or

(2) requests to file a claim during regular business hours of the division, if the claim cannot be immediately accepted and the claimant files the claim within five business days after the date of that request, or if filed by mail, within 14 calendar days after the date of that request.

(d) An initial claim filed by mail is effective on Sunday of the week of the postmark date of the mailing of the completed claim form.

(e) Repealed 3/25/2007.

(f) A claimant who is in continued claim status at the end of a benefit year must file a new claim to begin a new benefit year. An extended benefit claimant who is in continued claim status at the end of the benefit year, or at the end of any quarter following the benefit year, must file a new claim to determine eligibility for regular benefits in a new benefit year. The director will send a notice of the requirement to file a new claim to the claimant at least two weeks before the end of the benefit year or the end of the applicable calendar quarter.

(g) A transitional claim, or any new claim filed during a series of continued claims after the end of a benefit year, is effective on Sunday of the week immediately following the end of the benefit year or the applicable calendar quarter, if the claim is filed no later than seven calendar days after the end of the benefit year or applicable calendar quarter. The director shall extend the time allowed for filing the claim if the failure to file the claim earlier was caused by an oversight or error of the division.

(h) A claimant shall file an additional claim to begin a new series of continued claims in a benefit year if the claimant had intervening work and

(1) stopped filing continued claims; or

(2) earned wages for a week greater than one and one-third times the weekly benefit amount plus $50.

(i) An claimant filing an additional claim shall provide

(1) the name and address of the claimant's last employer;

(2) the dates of employment; and

(3) the reason for separation from that employer.

(j) A claimant who stopped filing continued claims for a reason other than work shall file a reopened claim to begin a new series of continued claims in the same benefit year. A claimant filing a reopened claim shall provide the reason why the claimant stopped filing continued claims.

#### CONCLUSION

Alaska Statute 23.20.375 holds that a claimant must have established an initial claim in order to be eligible for benefits for a week of unemployment. Regulation 8 AAC 85.100 holds that an initial claim is effective Sunday of the week in which it is filed.

In Olson, Com. Dec. No. 9122650, January 29, 1992, the Commissioner of Labor stated, in part:

*The regulation is clear that any initial claim must bear the date it is filed. There is no provision for backdating such claims at all, for good cause or otherwise.*

In Scott, Com. Dec. 87H-EB-162, June 18, 1987, the Commissioner held in part:

*Neither the Appeal Tribunal nor I have any jurisdiction to hold contrary to the clear wordage of the law.*

The claimant’s circumstances do not indicate that her claim should be made effective before June 7, 2020. She is not eligible for benefits for weeks that end before that date.

#### DECISION

The determination issued on June 29, 2020 is **AFFIRMED**. Benefits are **DENIED** for the weeks ending April 18, 2020 through June 6, 2020.

#### 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 August 5, 2020.

Rhonda Buness, Appeals Officer