

### APPEAL TRIBUNAL DECISION

**Docket number:** 20 2034 **Hearing date:** February 18, 2021

**CLAIMANT:**

PRINCELLA JONES

**CLAIMANT APPEARANCES: DETS APPEARANCES:**

Princella Jones None

#### CASE HISTORY

The claimant timely appealed an October 26, 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 established a claim for unemployment insurance benefits effective March 15, 2020.

In August 2020, the claimant received a notice from the Division that her regular unemployment benefits were about to be exhausted and advising her to call for extended benefits. The claimant called the Division on August 19, 2020 and her application for Pandemic Emergency Unemployment Compensation (PEUC) was taken by phone. The claimant was advised she would get a letter advising her of the requirements of that program. She was advised there would be a delay with her extension applications because her regular benefits had to exhaust first.

Using the Division’s website, the claimant filed a certification to claim benefits for week ending August 29, 2020, which exhausted her regular unemployment benefits. The claimant then filed a certification for the week ending September 5, 2020 and claimed her first week of PEUC.

The claimant attempted to file a certification on the website for the week ending September 12, 2020 between September 13, 2020 and September 19, 2020, but the website would not allow the claimant to fill out the certification form. The claimant believed the issue might be related to the extension program and she was still waiting for the letter about the requirements of that. The claimant tried calling the Division repeatedly before getting through on September 22, 2020. On that date, the claimant was advised how to post a resumé on the Division’s website, which was a requirement of the PEUC program. She was advised to try to file her certifications again. The claimant attempted to file certifications after posting her resumé online, but she still could not access the certification form.

On October 14, 2020, the claimant received a deposit of benefits. She believed this was the last of her regular unemployment benefits, so she called the Division on October 22, 2020 to see if she could start filing again. The claimant’s benefit claim was re-opened that day, and certifications for the weeks ending September 12, 2020 through October 17, 2020 were taken by phone. Weeks ending September 12, 2020 through October 3, 3030 were denied for being filed more than seven days after the filing period allowed for those weeks.

#### 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 AS 23.20.360, 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

(1) made an initial claim for benefits; and



(2) for that week, certified for waiting-week credit or made a claim for benefits.



**8 AAC 85.102 Intrastate filing: continued claims**

(a) An intrastate claimant located in this state is eligible for waiting week credit or benefits for a week if the claimant

(1) files a continued claim for the week as required in this section; and

(2) meets all requirements of AS 23.20 and this chapter.

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

(1) an electronic means designated by the director;

(2) telephone; or

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

(c) A continued claim for a week is filed when an unemployment insurance claim center of the division receives a certification for a continued claim.

(d) The filing date of a continued claim filed by mail is the postmark date of the mailing of the completed claim form.

(e) The date of filing of a continued claim filed by telephone is the date that the claimant accesses the telephone filing system and provides claim information for the week using the claimant's personal identification number.

(f) For each week claimed, the claimant shall answer specific eligibility questions and shall certify to the truthfulness and completeness of the answers.

(g) A continued claim for a week may not be filed before the end of the week claimed. A continued claim may not be filed later than seven calendar days after the end of the week claimed, except that

(1) if the director authorizes the filing of bi-weekly claims, the claim may not be filed later than seven days after the end of the bi-weekly period authorized by the director;

(2) a claim for benefits for a week of partial unemployment may not be filed later than seven days after the claimant receives wages for that week.

(h) The director shall extend the time allowed in (g) of this section for filing a continued claim if the claimant has good cause for filing a late claim and the claimant files the claim as soon as possible under the circumstances.

(i) For the purposes of (h) of this section, "good cause" means circumstances beyond a claimant's control that the division determines leave the claimant with no reasonable choice but to delay filing the claim; "good cause" includes illness or disability of the claimant, processing delays within the division, or failure of the division to provide sufficient or correct information to the claimant in order to file a continued claim.

#### CONCLUSION

Regulation 8 AAC 85.102 requires that certifications be filed within seven days after the end of the week or the bi-weekly filing period. The regulation holds that additional time can be allowed if the claimant had good cause for filing certifications late. Good cause includes failure of the Division to provide sufficient or correct information to the claimant.

The claimant in this was unable to file and she spoke to a claim center representative on September 22, 2020, at which time she could have filed timely certifications for the weeks ending September 12, 2020 and September 19, 2020. The claimant was advised to keep trying to file and no further assistance was offered.

*When a claimant approaches an unemployment insurance representative for instructions, it is the responsibility of that representative to provide complete and accurate information regarding the claimant’s request. Murphy, Com. Dec. No 87H-UI-283, September 29, 1987.*

*We find no material errors in the Tribunal's findings. However, we have previously ruled in Murphy, Com. Decision 87H-UI-283, Sept. 29, 1997, and other cases, that a claimant may rely on the instructions received from an authorized representative of the Employment Security Division. Such instructions may supersede instructions given in written form, such as claimant information handbooks or determinations depending on the circumstances. Vassar, Com. Dec. 96 0614, May 15, 1996.*

The claimant was not properly advised on September 22, 2020 and she continued to have problems filing until October 22, 2020 when she received assistance and was able to resume filing. The Tribunal finds the claimant had good cause for filing her certifications for the weeks ending September 12, 2020 through October 3, 2020 late.

The Tribunal notes certifications for weeks ending October 10, 2020 and October 17, 2020 were filed timely on October 22, 2020 but the claimant was not paid for those weeks.

#### DECISION

The determination issued on October 26, 2020 is **REVERSED**. Benefits are **ALLOWED** for the weeks ending September 12, 2020 through October 3, 3030, if the claimant is otherwise eligible.

The matter is **REMANDED** to the Division to enter certifications for the weeks ending October 10, 2020 and October 17, 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 February 24, 2021.

Rhonda Buness, Appeals Officer