****

**APPEAL TRIBUNAL DECISION**

**Docket Number:** 21 0003 **Hearing Date:** April 21, 2021

**CLAIMANT:**

MATTHEW MILLER

**CLAIMANT APPEARANCES: DETS APPEARANCES:**

Matthew Miller None

**CASE HISTORY**

The claimant appealed an October 15, 2020 determination which denied benefits under AS 23.20.045 and 8 AAC 85.104. The Tribunal ruled the appeal timely. The issue before the Appeal Tribunal is whether the claimant timely provided information as required.

**FINDINGS OF FACT**

The claimant established a claim for unemployment insurance benefits effective

May 24, 2020. The claimant filed his claim online through the Division’s website. He registered a résumé in the Division’s employment service website. He was instructed that he was not required to search for work.

The Division sent a notice on October 6, 2020 that the clamant was to contact the Division about his registration within seven days. He was not able to get through on the phone lines. He was cut off after a message that the Division was busy. He has not received any calls from the Division.

The claimant files claim certifications online each week and completes them as instructed. He is still attempting to contact the Division by telephone as of the date of this hearing.

**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](http://www.legis.state.ak.us/basis/folioproxy.asp?url=http://wwwjnu01.legis.state.ak.us/cgi-bin/folioisa.dll/stattx14/query=%5bJUMP:'AS2320360'%5d/doc/%7b@1%7d?firsthit), 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 85.104. Claims filing: claimant responsibilities**

(a) A claimant shall provide the division with timely, accurate, and complete information to determine or reexamine the claimant's eligibility for any claim under this chapter. The claimant shall provide information on eligibility

(1) when filing an initial claim;

(2) when requested by the division in order to evaluate a series of continued claims;

(3) in response to a claim audit conducted by the division or its representative; or

(4) when moving to a new location.

(b) The division will not allow benefits or waiting week credit for a week if the claimant has refused to provide the division with timely, accurate, and complete information on which to base a determination of eligibility.

**8 AAC 85.351. Claims filing: registration for work**

(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;

**CONCLUSION**

The claimant’s failure to reach the Division as instructed was outside of his control. The fact that the Division’s phone lines are so busy as to cut off calls once the phone queue has reached a certain number is not within his control. As such, he has not refused to provide information as much as the Division’s phone system has stopped his ability to contact the Division.

The claimant is following the instruction of the Division’s website when he files claim certifications online. As such, the Division has not shown that the claimant has failed to provide registration information or failed to register with the Division.

**DECISION**

The determination issued on October 15, 2020 is **REVERSED**. Benefits are allowed for the weeks ending October 3, 2020 and continuing, if otherwise eligible.

**APPEAL RIGHTS**

This decision is final unless an appeal is filed to the Commissioner of Labor and Workforce Development in writing 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 April 27, 2021.

Tom Mize

Appeals Officer