

### APPEAL TRIBUNAL DECISION

**Docket number:** 21 0613 **Hearing date:** March 30, 2022

**CLAIMANT:**

SHUANGLIAN LI

**CLAIMANT APPEARANCES: DETS APPEARANCES:**

Suanglian Li None

Donald Maki

#### CASE HISTORY

The claimant timely appealed a February 9, 2021 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 work was affected by the COVID-19 pandemic when her employer temporarily closed its business on March 30, 2020. The claimant was advised to apply for unemployment benefits while she was unable to work due to the business closure. The claimant’s first language is not English. The claimant’s husband assists her with matters where language is a barrier and he attempted to help the claimant establish a claim on the Division’s website, but was unable to access the website using the claimant’s identifying information. He later learned the Division’s website could not be accessed because the claimant was an immigrant and had not previously established an unemployment claim in Alaska. The claimant’s husband tried to call the Division about 30 times a day every week day to help his wife establish a claim. He would most often hear a recording that the Division’s phone system was full and he would be disconnected. Sometimes he would wait on hold and leave a callback number, but he was never called back. The claimant was aware of other people who were having similar difficulty reaching the Division during that period. The claimant’s husband spoke to a Division representative for the first time on April 30, 2020. The claimant was then contacted and her initial claim for unemployment benefits was taken and made effective Sunday, April 26, 2020.

On February 8, 2021, the claimant requested her initial claim be backdated to March 29, 2020. Certifications for the weeks ending April 4, 2020 through April 25, 2020 were taken by phone that day. Benefits for those weeks were denied because the weeks ended before the effective date of the claimant’s initial claim for benefits.

#### 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

(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 85.100 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 requires that a claimant have an initial claim in place in order to be eligible for benefits for a week of unemployment. Regulation 8 AAC 85.100 holds that a claim for benefits is effective Sunday of the week in which the claimant files the claim or attempts to file the claim within normal business hours of the Division, if for some reason the claim cannot be accepted.

The claimant in this case attempted to file a claim in the week ending April 4, 2020 and continued to call numerous times each day during the Division’s business hours through April 30, 2020. The claimant was unable to establish an initial claim online and she and her husband could not get through to the Division by phone despite numerous and continuous calls during the time of unprecedented unemployment filing at the beginning of the COVID-19 pandemic. The Tribunal finds the claimant should be considered to have requested to file her claim in the week ending April 4, 2020. The claim should be made effective March 29, 2020 and the certifications considered timely filed.

#### DECISION

The determination issued on February 9, 2021 is **REVERSED**. Benefits are **ALLOWED** for the weeks ending April 4, 2020 through April 25, 2020, if the claimant is otherwise eligible.

The matter is **REMANDED** to the Division to change the claimant’s benefit year begin date to March 29, 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 April 5, 2022.

Rhonda Buness, Appeals Officer