

### APPEAL TRIBUNAL DECISION

**Docket number:** 21 0650 **Hearing date:** September 8, 2021

**CLAIMANT:**

TEVORIS CARTER

**CLAIMANT APPEARANCES: DETS APPEARANCES:**

Tevoris Carter None

#### CASE HISTORY

The claimant timely appealed a March 24, 2021 determination which denied benefits under AS 23.20.375. The issue before the Appeal Tribunal is whether the claimant met the Division’s filing requirements.

#### FINDINGS OF FACT

The claimant established a claim for unemployment insurance benefits effective March 22, 2020. The claimant filed certifications to claim benefits each week, using the Division’s website, with the assistance of his girlfriend. On September 14, 2020, the claimant filed a certification to claim benefits for the week ending September 12, 2020. When the claimant was paid benefits for that week, the regular unemployment benefits on his claim were exhausted. The claimant did not recall that he received a notice from the Division that his benefits were exhausted or how he could apply for an extension of benefits. The Division’s documents in the record do not include any such notices.

The claimant continued to file weekly certifications and noted that he did not receive benefits. He tried to call the Division numerous times a day and could not get through due to the volume of calls on the phone system, which would hang up, sometimes after a long wait. The phone system played recorded messages that urged claimants to apply online. The claimant and his girlfriend checked the Division’s website for extension applications and found none. The claimant stopped filing after the week ending December 12, 2020 when the Division’s computer system stopped allowing him to file.

The claimant contacted the Division by phone on March 24, 2020 and his claim for Pandemic Emergency Unemployment Compensation was taken that day. The claimant’s request to have that initial claim be effective the week after his regular benefits ended was denied.

#### 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 holds that in order to be eligible for benefits for a week, the claimant must have an initial claim in place and must file a certification for that week. Regulation 8 AAC 85.100 holds that initial claims are effective Sunday of the week in which they are filed. The claimant in this case established an initial claim for PEUC benefits on March 24, 2021. The claim was made effective March 21, 2021.

U.S. Department of Labor’s Unemployment Insurance Program Letter- 1720 Pandemic Emergency Unemployment Compensation, Attachment 1, issued April 10, 2020:

*Applicability of State Law Provisions.*

*Under Section 2107 of the CARES Act, except where inconsistent with the CARES Act or with the operating instructions promulgated to carry out the CARES Act, all terms and conditions of the state UC law applicable to claims for and payment of regular UC apply to claims for and payment of PEUC. States are reminded that they may have certain flexibilities in applying their requirements in light of the efforts to mitigate COVID-19, in addition to the specific flexibilities for “actively seeking work” in Section 2107(a)(7). See UIPL No. 10-20.*

*The provisions of the applicable state law that apply to claims for PEUC include but are not limited to:*

*a. Claim Filing and Reporting;*

The Division has not established that the claimant was notified of the requirement to file an application for extended benefits by phone with the Division. The claimant attempted to contact the Division immediately when he realized he had stopped receiving benefits and he could not reach the Division because of the high volume of calls the Division was experiencing.

The Tribunal finds the claimant’s PEUC claim should be made effective September 13, 2020.

#### DECISION

The determination issued on March 24, 2021 is **REVERSED**. Benefits are **ALLOWED** beginning with the week ending September 19, 2020, if the claimant has filed and is otherwise eligible.

#### 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 September 14, 2021.

Rhonda Buness, Appeals Officer