

### APPEAL TRIBUNAL DECISION

**Docket number:** 21 1241 **Hearing date:** September 1, 2021

September 2, 2020

**CLAIMANT:**

MATTHEW MURPHY

**CLAIMANT APPEARANCES: DETS APPEARANCES:**

Matthew Murphy None

#### CASE HISTORY

The claimant timely appealed determinations issued June 16, 2021 and June 17, 2021, both of which denied benefits under AS 23.20.375. The issue before the Appeal Tribunal is whether the claimant met the Division’s filing requirements.

The Division issued a determination on June 2, 2021 that denied the claimant’s benefits for the week ending May 8, 2021 under the same filing statute and regulation. The Tribunal takes that issue under consideration as well.

#### FINDINGS OF FACT

The claimant established a claim for unemployment insurance benefits effective March 22, 2020. The claimant filed for benefits between periods of work, using the Division’s website.

The claimant ended a period of work in the week ending May 1, 2021. He did not contact the Division or access the Division’s website in the week ending May 8, 2021. On May 15, 2021 the claimant accessed the website and re-opened his claim for benefits effective Sunday of that week, May 9, 2021, and filed a certification for the week ending May 8, 2021. Benefits for that week were denied because the week ended before the effective date of his re-opened claim.

The claimant timely attempted to filed a certification to claim benefits for the week ending May 15, 2021, but his access to the State’s MyAlaska website was locked, which prevented him from filing. The claimant began calling the Division for assistance, but the phone system advised him there was a high call volume and often would not let him hold or would disconnect him. The claimant eventually reached a Division representative in the Benefit Payment Control office on June 7, 2021. The claimant was advised he was required to call the claim center. After many more calls, the claimant reached a claim center representative on June 15, 2021. The representative re-opened the claimant’s claim effective Sunday of that week, June 13, 2021 and took his certifications by phone for the weeks ending May 15, 2021 through June 5, 2021. The claimant filed a certification for the week ending June 12, 2021 on the website. Benefits were denied for weeks ending May 15, 2021 through June 5, 2021 on a holding that the weeks were filed late. Benefits were denied for the week ending June 12, 2021 because the week ended before the date of the claimant’s re-opened claim.

#### 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.

**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

Alaska Statute 23.20.375 holds that in order to be eligible for benefits for a week of unemployment, a claimant must have an initial claim in place and must file a certification.

Regulation 8 AAC 85.100 holds that initial claims are effective Sunday of the week in which they were filed or requested to be filed. The claimant did not request to re-open his claim in the week ending May 8, 2021, so his benefits were properly died for that week.

Regulation 8 AAC 85.102 holds that a certification must be filed within seven days of the end of the week being claimed, or within seven days of the end of a bi-weekly period. The regulation holds that time to file will be extended if the claimant has good cause for not filing timely and files as soon as possible. The claimant in this case tried to file a certification for the week ending May 15, 2021 timely and he was unable to do so because his access to the Division’s website was locked. The claimant sought help with this issue, and was prevented from getting timely help because the Division’s phone were busy and he could not get through to a representative that could help him until June 15, 2021. The Tribunal finds the claimant had good cause to delay filing his claim as the issue that prevented him from filing was outside his control, as was the volume of traffic on the Division’s phone system. The Tribunal finds the claimant’s certifications for the weeks ending May 15, 2021 through June 5, 2021 should be accepted as timely filed.

Accepting the certifications as timely filed negates the requirement to re-open the claimant’s claim on June 13, 2021. Since the claimant’s initial claim was open and the claimant filed a timely certification to claim benefits for the week ending June 12, 2020, the claimant is eligible for benefits for that week.

#### DECISION

The determination issued on June 2, 2021 is **AFFIRMED**. Benefits remain **DENIED** for the week ending May 8, 2021.

The determination issued on June 17, 2021 is **REVERSED**. Benefits are **ALLOWED** for the weeks ending May 15, 2021 through June 5, 2021, if the claimant is otherwise eligible.

The determination issued on June 16, 2021 is **REVERSED**. Benefits are **ALLOWED** for the week ending June 12, 2021, if the claimant 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 10, 2021.

Rhonda Buness, Appeals Officer