

**BEFORE THE ALASKA OFFICE OF ADMINISTRATIVE HEARINGS ON REFERRAL  
BY THE DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT**

In the Matter of )  
 )  
ISABELLA GOLLIE ) OAH No. 21-2556-PUA  
 ) Agency No. P21 1045 03  
\_\_\_\_\_ )

**APPEAL DECISION**

**Docket Number:** P21 1045 03 **Hearing Date:** January 13, 2022  
**CLAIMANT APPEARANCES:** **DETS APPEARANCES:**  
Isabella Gollie None

**CASE HISTORY**

This case concerns a late appeal of determinations by the Division of Employment and Training Services (DETS) that the claimant, Isabella Gollie, did not meet eligibility requirements for Pandemic Unemployment Assistance (PUA) benefits under the CARES Act, Public Law 116-136.

Isabella Gollie filed a claim for PUA benefits in May of 2020. Initially, she was found eligible and received payments beginning the week ending March 28, 2020 through the week ending January 23, 2021. On March 22, 2021, the DETS issued a notice of a determination that Ms. Gollie was not eligible from the week ending January 2, 2021, as she failed to provide substantiation of her employment affected by COVID-19. This was not appealed within 30 days.

On August 13, 2021, the DETS issued a notice of a determination that she was not eligible for PUA benefits as she had not supplied verification of her identity. (Ex. 2, page 1). Ms. Gollie appealed this determination on October 21, 2021, asserting “I do have correct and updated information regarding my identity. It did not get processed correctly and I believe the photo ID was blurry. I have a passport and other identity documents available.” The same day, she was notified of an overpayment of \$17,187. According to the DETS, Ms. Gollie’s identification issue was “cleared” August 16, 2021.

On August 23, 2021, the DETS issued a notice of determination that Ms. Gollie was not eligible for PUA benefits from the week ending February 8, 2020 as a covered individual because she quit her employment for reasons not related to COVID-19, and instead “voluntarily quit her job for unknown reasons.” Ms. Gollie did not file a separate appeal of that determination, but it is incorporated in the current late appeal.

The Department of Labor referred the appeal to the Office of Administrative Hearings on December 20, 2021. Under the agreed terms of referral, an administrative law judge (ALJ) hears and decides the appeal under procedures specific to PUA appeals. AS 44.64.060 procedures do not apply.

The matter was heard in a recorded hearing on January 13, 2022. The claimant appeared telephonically and testified under oath. Although notified of the hearing, the DETS chose not to appear and to rely on the documents it submitted, marked as Exhibit 1. The record remained open to allow Ms. Gollie to submit additional documents (including a copy of the Notice of Non-Monetary Issue Determination she appealed, Exhibit 2, and a notice of UI claim withholding issued August 31, 2021, Exhibit 3). Although Ms. Gollie referred to pay stubs establishing her employment at the Walmart in Eagle River in March 2020, these were not submitted. The record was deemed closed January 20, 2022, but it was reopened until February 15, 2022 to request further information from the DETS on the calculation of UI payment eligibility and to afford Ms. Gollie an opportunity to respond.

There are two issues before the ALJ. The first issue is whether the claimant filed a timely appeal or, if not timely, whether good cause exists to extend the time to file an appeal to October 21, 2021. The second issue is whether the claimant meets the eligibility requirements of the Act after February 8, 2020.

### **FINDINGS OF FACT**

Ms. Gollie works as a construction and general laborer and a call center worker, as well as other work. She testified she had been working on a job remodeling a Walmart store in Eagle River in March of 2020, when the job was closed after people started coming in sick. She said the work involved moving aisles, painting, and general remodeling. She stated her employer was Anderson Merchandising. She did not supply pay stubs or a Form 1099 for this work when requested by the ALJ.

After this, Ms. Gollie worked briefly as a logistics manager for Elevate Staffing, doing set up and take down for “pop up” vaccination clinics for Visit Healthcare. After that she worked briefly in temporary jobs for Alaska Community Action Against Toxics and Alyse for Alaska in 2020. She continued to claim PUA benefits while working in these jobs.

On August 19 of 2020, she went to work as a construction laborer for Retail Execution West, LLC. She continued to receive PUA benefits while working. October 21, 2020 was the last day Ms. Gollie worked for Retail Execution West, according to the company’s report to the DETS (Ex. 1, pg. 14) although the formal date of separation was November 3, 2020. (Ex. 1, pg. 14). Ms. Gollie said she was supposed to self-quarantine because people were reporting to the job ill with COVID-19. The company stated she was separated because she failed to call in an absence two days in a row (Ex. 1, pg. 16). Ms. Gollie claimed that she became unemployed when the company “shut down” on December 7, 2020 due to COVID-19 in its workforce.

In January of 2021, Ms. Gollie applied for UI benefits. She was determined to be eligible for UI benefits and payment of her benefits have been credited against her overpayment of PUA benefits since the week ending January 23, 2021 (Ex. 3, page 1). According to the DETS, Ms. Gollie’s first application for unemployment was July 24,

2020, but she did not continue to file. She would have become eligible, had she filed, on January 3, 2021.

She has been working for Cadence General since sometime around December 20, 2021 as a general laborer, sometimes painting, moving flooring, and cleaning up, as a Form 1099 worker. She couldn't recall other employment in 2021.

Ms. Gollie said she delayed filing an appeal for three months. She explained she had had difficulty reaching people to talk to at the DETS and that she didn't get called back. However, she frankly admitted that she was just tired of dealing with it.

### **EXCERPTS OF RELEVANT PROVISIONS OF LAW**

#### **The CARES Act of 2020, Public Law 116-136, Title II, Sec. 2102 Pandemic Unemployment Assistance, amended by Consolidated Appropriations Act, Public Law 116-260, Div. N, Title II, subchapter IV, Sec. 241 (a), codified as 15 U.S.C. § 9021:**

(a) DEFINITIONS.—In this section:

. . .

(3) COVERED INDIVIDUAL.—The term “covered individual”—

(A) means an individual who—

(i) is not eligible for regular compensation or extended benefits under State or Federal law or pandemic emergency unemployment compensation under section 2107, including an individual who has exhausted all rights to regular unemployment or extended benefits under State or Federal law or pandemic emergency unemployment compensation under section 2107; and

(ii) provides self-certification that the individual—

(I) is otherwise able to work and available for work within the meaning of applicable State law, except the individual is unemployed, partially unemployed, or unable or unavailable to work because—

(aa) the individual has been diagnosed with COVID-19 . . . ;

(bb) a member of the individual's household has been diagnosed with COVID-19;

(cc) the individual is providing care for a family member . . . diagnosed with COVID-19;

(dd) a child . . . is unable to attend school . . . that is closed as a direct result of the COVID-19 public health emergency and such school . . . is required for the individual to work;

(ee) the individual is unable to reach the place of employment because of a quarantine imposed as a direct result of the COVID-19 public health emergency;

- (ff) the individual . . . has been advised by a health care provider to self-quarantine due to concerns related to COVID-19;
  - (gg) the individual was scheduled to commence employment and does not have a job or is unable to reach the job as a direct result of the COVID-19 public health emergency;
  - (hh) the individual has become the breadwinner . . . because the head of the household has died as a direct result of COVID-19;
  - (ii) the individual has to quit his or her job as a direct result of COVID-19;
  - (jj) the individual's place of employment is closed as a direct result of the COVID-19 public health emergency; or
  - (kk) the individual meets any additional criteria established by the Secretary for unemployment assistance under this section; or
- (II) is self-employed, is seeking part-time employment, does not have sufficient work history, or otherwise would not qualify for regular unemployment or extended benefits under State or Federal law or pandemic emergency unemployment compensation under section 2107 and meets the requirements of subclause (I); and
- (iii) provides documentation to substantiate employment or self-employment or the planned commencement of employment or self-employment not later than 21 days after the later of the date on which the individual submits an application for pandemic unemployment assistance under this section or the date on which an individual is directed by the State Agency to submit such documentation . . . , except that such deadline may be extended if the individual has shown good cause under applicable State law for failing to submit such documentation; and
- (B) does not include—
- (i) an individual who has the ability to telework with pay; or
  - (ii) an individual who is receiving paid sick leave or other paid leave benefits, regardless of whether the individual meets a qualification described in items (aa) through (kk) of subparagraph (A)(i)(I).

**Unemployment Insurance Program Letter No. 16-20, Change 2, Attachment I, pg. I-6, issued by the U.S. Department of Labor July 21, 2020.**

Eligibility – COVID-19 Related Reasons

14. Question: If an individual becomes unemployed for reasons unrelated to COVID-19, and now is unable to find work because businesses have closed or are not hiring due to COVID-19, is he or she eligible for PUA?

Answer: No. An individual is only eligible for PUA if the individual is otherwise able to work and available to work but is unemployed, partially unemployed, or unable or unavailable for work for a listed COVID-19 related reason under Section 2102(a)(3)(A)(ii)(I) of the CARES Act. Not being able to find a job because some businesses have closed and/or may not be hiring due to COVID-19 is not an identified reason.

**Alaska Statute 23.30.340. Determination of claims.**

(e) The claimant may file an appeal from an initial determination or a redetermination under (b) of this section not later than 30 days after the claimant is notified in person of the determination or redetermination or not later than 30 days after the date the determination or redetermination is mailed to the claimant's last address of record. The period for filing an appeal may be extended for a reasonable period if the claimant shows that the application was delayed as a result of circumstances beyond the claimant's control.

**8 Alaska Administrative Code 85.151 Filing of appeals**

(a) An interested party may file an oral or written appeal from a determination or redetermination issued under AS 23.20 and this chapter. The appeal may be filed in person, by mail, or by telephone. An oral or written protest indicating a desire to appeal is an appeal to a referee or the commissioner.

(b) An appeal from a determination or redetermination on a claim for benefits may be filed with a referee or at any office of the division. An appeal must be filed no later than 30 days after the determination or redetermination is personally delivered to the appellant or no later than 30 days after the date the determination or redetermination is mailed to the appellant's last address of record. The 30-day time period will be computed under Rule 6 of the Rules of Civil Procedure. *However, the 30-day period may be extended for a reasonable time if the appellant shows that the failure to file within this period was the result of circumstances beyond the appellant's control. [italics added]*

**APPLICATION**

**Timeliness.**

Ms. Gollie received notice of the determination that she was not eligible for PUA benefits after January 2, 2021 due to failure to substantiate employment on March 22, 2021. (Ex. 1, pg. 6). Ms. Gollie did not appeal this determination. It appears that, at least as of January 17, 2021, Ms. Gollie was applying for regular UI benefits.

In August of 2021, Ms. Gollie received two determinations that affected her entitlement to benefits that had been paid in 2020: that she failed to provide proof of identity (issued August 13, 2021 and resolved by the DETS August 16, 2021); and, that she failed to show that she was employed or self-employed in February or March

of 2020 and that her employment or self-employment was ended or limited by a COVID-19 related reason (issued August 23, 2021).

Ms. Gollie stated that the late appeal “was on me”. She did not present any specific reason why she did not file an appeal after the March 22, 2021 notice, nor any reason why her appeal was focused on the August 13, 2021 determination, except her shock at receiving the notice that she owed an overpayment of more than \$17,000.

I find that Ms. Gollie did not present good cause for the failure to appeal within 30 days of the determination issued March 22, 2021, which, if it is included in her October appeal would be 213 days. Therefore, the determination that Ms. Gollie is not eligible for PUA benefits after January 2, 2021 is final.

I also find that Ms. Gollie’s appeal of the August 13, 2021 determination that she failed to provide identity verification is moot, as it was resolved August 16, 2021, as noted by the DETS.

This leaves Ms. Gollie’s appeal of the August 23, 2021 determination. At the latest, allowing the time calculated from August 23, 2021 under Alaska Civil Rule 6 as provided in 8 AAC 85.151(b), Ms. Gollie’s appeal must have been filed by Monday, September 27, 2021. Ms. Gollie filed her appeal October 21, 2021, which is 24 days late. While this would be a reasonable time to extend an appeal period if good cause were shown, in this case Ms. Gollie simply did not show good cause for failing to file an appeal. Therefore, I reluctantly conclude that the appeal must be dismissed as untimely under AS 23.20.340.

**Merits.**

Although this appeal must be dismissed as untimely, I address the merits of Ms. Gollie’s appeal of the last determination filed by the DETS. Ms. Gollie’s testimony was vague or confused as to dates. Nonetheless, she was certain that she was working for Anderson Merchandising on a remodel of a store in Eagle River in March of 2020 when she was let go as the company had workers sick, limits on how many workers could be in the store, and other impacts of COVID-19. Several times she stated she had the pay stubs to prove this, and she agreed to provide the stubs to the ALJ. No pay stubs were received.

The record shows that Ms. Gollie applied for PUA benefits on May 24, 2020 (Ex. 1, pg. 9). Four days later, she was paid PUA benefits back to the week ending March 28, 2020. (Ex. 1, pg. 42). When requested to provide employment substantiation, she did not provide it to the DETS. Ms. Gollie also obtained several temporary jobs while receiving PUA benefits during 2020. She explained these were only temporary, and that she needed the money to avoid being evicted from her apartment. Finally, when she obtained a regular job with Retail Execution West, LLC in August of 2020, she did not inform the DETS – but continued to receive PUA benefits without reporting her earnings. When the job ended, she said she “reapplied” for PUA benefits based on the closing of the business due to COVID-19.

I find that Ms. Gollie failed to establish that she was eligible for PUA benefits beginning the week ending March 28, 2020. She did not submit the pay stubs she claimed to have for the March 2020 job in Eagle River, an employer or supervisor's statement, or any other proof that she was unemployed, or partially unemployed, because of a listed COVID-19 related reason beginning March 21, 2020. Even if she was working on a job remodeling the Eagle River store, she did not establish that the job ended because the Municipality ordered it to close due to the public health emergency or the general contractor or client closed the job as a direct result of COVID-19 (Sec. 2102(a)(3)(A)(ii)(I)(jj)).

Ms. Gollie testified she left the job with Elevate Staffing/Visit Health Care because of the 12-hour days. She left the job with Alaska Action Against Toxics because it was a short-term temporary job. She left the job with Alyse for Alaska again because the temporary job ended. None of these jobs had reduced hours or closed because of COVID-19. While each of these jobs was a short-term employment, they were employment, and because she was employed, she was not then eligible for PUA benefits. (Sec. 2102(a)(3)(A)(ii)).

Finally, Ms. Gollie became regularly employed August 17, 2020, which clearly ended her entitlement to PUA benefits – even had she been entitled to receive it earlier. I find that Ms. Gollie was not eligible for PUA benefits from the week ending August 22, 2020 through the week ending October 31, 2020 because she was not at that time “unemployed.” (Sec. 2102(a)(3)(A)(ii)).

Finally, although she presented somewhat confused testimony about having to self-quarantine at the end of October 2020 when she did not go to work for Retail Execution West, she did not present any testimony from a co-worker or other evidence that she was in close contact with a person who had tested positive for COVID-19 (at work or otherwise) and that she was required to self-quarantine. She also complained that she was not getting any hours due to delays in scheduling who could be in the building.

If Ms. Gollie was required to self-quarantine, her period of eligibility would not have exceeded 14 days, unless she was separated from her employment due to the quarantine request from the State of Alaska Division of Public Health or the Municipality's Department of Health. Either one of these entities, or a contact tracer from the University of Alaska Anchorage could have supplied documentation at the time they spoke with her, by email or text message. Ms. Gollie did not supply such documentation to support her reapplication for PUA – she simply relied on the date that Retail Execution closed the job. She did not present evidence of hours reduction. Her employer reported she was separated November 3, 2020 because she failed to report to work without calling in.

I find that Ms. Gollie failed to establish that her job at Retail Execution ended due to a request to self-quarantine (Sec. 2102(a)(3)(A)(ii)(I)(ee) & (ff)) or that her hours were reduced, or her employment terminated, as a direct result of the COVID-19 public

health emergency (Sec. 2102(a)(3)(A)(ii)(I)(jj) & (kk). Thus, while she was unemployed effective November 3, 2020, she was not unemployed due to a COVID-19 related reason. As the U.S. Secretary of Labor has advised, a person who becomes unemployed for a reason not related to COVID-19, and who has difficulty afterward finding work because employers are not hiring or are closed due to COVID-19, is not eligible for PUA benefits. Thus, even if the appeal were not filed late, I would find that it must be denied.

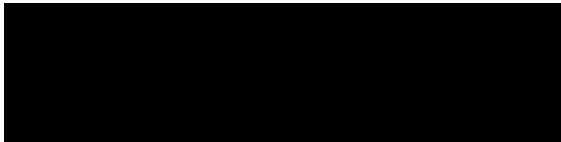
This decision leaves Ms. Gollie with a substantial overpayment of PUA benefits. Nothing in this decision concerns her obligation to repay benefits or any right she may have to appeal a determination of overpayment or waiver of overpayment. It is possible, however, that Ms. Gollie could qualify for a waiver from recoupment or, if a waiver were not granted, that she must be afforded an appeal hearing in which such matters could be explored. Again, the present referral does not encompass these issues, and the present decision does not decide them for or against Ms. Gollie.

The Division has advised that its Benefit Payment Control (BPC) office handles waiver requests for overpayments and recoupments. For questions and information regarding options that may be available, the claimant can call the BPC at 907-465-2863, 1-888-810-6789, or email to [jnu.bpc@alaska.gov](mailto:jnu.bpc@alaska.gov). From Ms. Gollie's appeal, (Ex. 1, pg. 1), it appears she has already been in touch with that office.

### **DECISION**

The appeal filed October 21, 2021 is **DENIED** and **DISMISSED**.

Dated: February 17, 2022,

  
Kris Knudsen  
Administrative Law Judge

### **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.

### **CERTIFICATE OF SERVICE**

I certify that on February 17, 2022, the foregoing decision was served on Isabella Gollie (by mail and email). A courtesy copy has been emailed to the DETS UI Technical Team, UI Support Team, and UI Appeals Team.

  
Office of Administrative Hearings





*Alaska Department of Labor and Workforce Development  
Appeals to the Commissioner*

Please read carefully the enclosed Appeal Tribunal decision. Any interested party (claimant or the Division of Employment and Training Services [DETS]) may request that the Commissioner accept an *appeal* against the decision (AS 23.20.430-435 and 8 AAC 85.154-155).

A Commissioner appeal must be filed within 30 days after the Appeal Tribunal decision is mailed to a party's last address of record. The 30-day period may be extended for a reasonable time if the appealing party shows that the appeal was late due to circumstances beyond the party's control.

A Commissioner appeal must be in writing and must fully explain your reason for the appeal. You or your authorized representative must sign the appeal. All other parties will be sent a copy of your appeal. Send Commissioner appeals *to the Commissioner's Hearing Officer* at the address below.

A Commissioner appeal is a matter of right if the Appeal Tribunal decision reversed or modified a DETS determination. If the Appeal Tribunal decision did not modify the DETS determination, the Commissioner is not required to accept the appeal. If the appeal is accepted, the Commissioner may affirm, modify, or reverse the Appeal Tribunal decision. The Commissioner may also refer the matter back to the Appeal Tribunal for another hearing and/or a new decision. The Commissioner will issue a written decision to all interested parties. The Commissioner decision will include a statement about the right to appeal to Superior Court.

Any party may present *written argument* to the Commissioner stating why the Appeal Tribunal decision should or should not be changed. Any party may also request to make an *oral argument*. Written argument and/or a request for oral argument should be made when you file an appeal or immediately after you receive notice that another party filed an appeal. You must supply a written argument or a request for oral argument promptly, because neither will likely be considered after the Commissioner issues a decision.

**ALASKA DEPARTMENT OF LABOR  
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