

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

In the Matter of)

AMANDA JELF)

) OAH No. 21-0819-PUA
) Agency No. P21-171-03
)

APPEAL DECISION

Docket Number: P21-171-03

Hearing Date: May 21, 2021

Claimant Appearances:

DETS Appearances:

Amanda Jelf

None

CASE HISTORY

The claimant established a claim for Pandemic Unemployment Assistance (PUA) benefits effective the week ending April 25, 2020. The Division of Employment and Training Services (DETS) determined the claimant was not a “covered individual” eligible for PUA benefits and issued a Notice of the determination to the claimant August 6, 2020 [REDACTED]. The determination was appealed January 14, 2021.

The Department of Labor and Workforce Development referred the appeal to the Office of Administrative Hearings on May 3, 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.

This appeal was scheduled for hearing May 19, 2021, but at the opening of the hearing, the ALJ learned Ms. Jelf had not received the Notice of Hearing and exhibits mailed to her. These documents were sent to her by email, and the matter was heard in a recorded hearing on May 21, 2021. The DETS chose to not to appear and provided only written materials for the hearing. Ms. Jelf testified under oath but presented no other witnesses. The record remained open through May 24, 2021 to allow Ms. Jelf to submit additional documents supporting her claim.

The issues before the ALJ are whether the claimant filed a timely appeal of the August 6, 2020 determination denying her pandemic unemployment assistance and whether the claimant meets the eligibility requirements of the Act from the week ending April 25, 2020.

FINDINGS OF FACT

Ms. Jelf resided in North Pole, Alaska in 2017, living with a boyfriend. The couple moved to Delta Junction in the winter of 2017-2018. In 2019, she moved to the apartment of her current fiancé. The couple lost their apartment and moved into a 5th

wheel trailer on a friend’s property before renting their current apartment. At the time she and her fiancé were living in the trailer, she began using her fiancé’s father’s Post Office Box as a mailing address. This is the address she used for applying for pandemic unemployment assistance. Since then, her fiancé’s father has made it clear he does not want her mail arriving at his box and even throws that mail away. She has rented her own P.O. Box for about 3 months. Ms. Jelf had no forwarding address from North Pole to Delta Junction, but if she had it would have long expired.

Ms. Jelf stated she worked “under the table” cleaning apartments for a Reuvin Yantsen, a resident and landlord in Delta Junction. She characterized this as “gig work.” In 2019, Mr. Yantsen hired her and her fiancé to clean and repaint some apartments. Her fiancé does construction work; while he works, she has been caring for his son Sterling, who is ten years old. She has sought work at local businesses. When schools were closed in March of 2020, she helped him with his online school which is part of the Delta-Greeley School District. In fall, the school opened to hybrid learning and is now open full time.

Ms. Jelf was unable to reach Mr. Yantsen to obtain a letter verifying her employment or the impact of COVID-19 on his rental business and its effect on her hours.

EXCERPTS OF RELEVANT LAW

The CARES Act of 2020, Public Law 116-136, Title II, Sec. 2102 Pandemic Unemployment Assistance

(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—

...

(dd) a child or other person in the house- hold for which the individual has primary caregiving responsibility is unable to attend school or another facility that is closed as a direct result of the COVID-19

public health emergency and such school or facility care is required for the individual to work;

...

(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); . . .

Unemployment Insurance Program Letter No. 16-20, change 1, issued by the Secretary of Labor on April 27, 2020, added eligibility provisions under Section 2102(a)(3)(A)(ii)(I)(kk): An independent contractor may be eligible for PUA if he or she is unemployed, partially unemployed, or unable or unavailable to work because of the COVID-19 reasons listed above, including an independent contractor who experiences a “significant diminution” of work as a result of COVID-19.

8 AAC 85.151. Filing of appeals.

(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.

APPLICATION

Timeliness of the Appeal

The Notice denying Ms. Jelf’s claim was issued on August 6, 2020 and mailed to an address she had not used for four years. This is peculiar given the address she supplied for her pandemic unemployment assistance claim. She called the DETS September 28, 2020 to get assistance unlocking her online account. At that point, she was informed that she had been denied pandemic unemployment assistance. She was offered an appeal but, according to the call taker’s notes, Ms. Jelf said she would think about it and “call us back if she wanted to”. On October 8, 2020, she called back, apparently wanting to file an appeal. Instead a different call taker “explained about not having an actual job offer” and Ms. Jelf said she would “figure *something else* out”. Finally, on January 14, 2021, Ms. Jelf successfully filed an appeal.

Here, Ms. Jelf’s appeal was never mailed to her address of record for the pandemic unemployment assistance claim. She learned from a DETS call taker that her claim had been denied. She called back, apparently to try to appeal, but was told that

information “about not having an actual job offer,” and, by her reference to “something else” had been dissuaded from filing an appeal instead of assisted. I find that Ms. Jelf made a timely attempt to file an appeal within 30 days of learning about the denial of her benefits, despite failure to mail the determination to her correct address of record for her pandemic unemployment assistance claim.

Merits of the Appeal

I find that Ms. Jelf has not presented sufficient evidence to establish that she had expectation to resume employment as a house cleaner for Mr. Yantsen in 2020 that was interrupted by the COVID-19 pandemic, or that she lost hours of work from Mr. Yantsen due to the COVID-19 pandemic, or that she was prevented by the obligation to care for and assist Sterling with his online school from March 20, 2020, when schools were closed by the Governor through the end of the semester in the Delta-Greeley School District. I conclude that she was not eligible for pandemic unemployment assistance from the week ending April 25, 2020.

DECISION

The determination of August 6, 2020 [REDACTED] is AFFIRMED.

Dated: May 27, 2021.

[REDACTED]
Kristin Knudsen
Administrative Law Judge

APPEAL PROCEDURE

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 May 27, 2021, the foregoing decision was served on Amanda Jelf (by mail and by email to: [REDACTED]). A courtesy copy has been emailed to the DETS UI Technical Team, UI Support Team, and UI Appeals Team.

[REDACTED]
Office of Administrative Hearings