

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

In the Matter of)
)
TRAVANTE WILLIAMS) OAH No. 21-1188-PUA
) Agency No. P21 358 03
_____)

APPEAL DECISION

Docket Number: P21 358 03

Hearing Date: July 7, 2021

CLAIMANT APPEARANCES:

DETS APPEARANCES:

Travante Williams

None

CASE HISTORY

The claimant, Travanté Williams filed an appeal on February 9, 2021 from an adverse determination issued August 26, 2020, [Letter ID: L0004187048] which denied him eligibility for Pandemic Unemployment Assistance (PUA) benefits under the CARES Act, Public Law 116-136. The Department of Labor referred the appeal to the Office of Administrative Hearings on June 1, 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 July 7, 2021. Mr. Williams appeared telephonically and testified under oath. Although notified of the hearing, the Division of Employment and Training Services (DETS) chose not to send a representative or to make one available by telephone. It relied on the documents it submitted, admitted as Exhibit 1. Mr. Williams submitted a letter from Graceful Touch dated March 11, 2021, also admitted as part of the record.

The issues before the ALJ are first, whether Mr. Williams's appeal is barred for failure to file within 30 days, and second, whether Mr. Williams meets the eligibility requirements of the Act.

FINDINGS OF FACT

Travante Williams established a claim for Pandemic Unemployment Assistance benefits effective the week ending March 14, 2020. The DETS determined that the claimant was not eligible for PUA benefits because he was not impacted by COVID-19 in a manner that made him a covered individual under the program. Specifically, the DETS decided that he did not lose a job with a business that had not yet begun (Graceful Touch) and he did not have a going self-employment business.

Mr. Williams, who is 27 years old, testified he was trying to get a life-coaching business going, based on his past experience working for Boys and Girls Club. He has worked in a variety of jobs but did not work at all in 2019 or 2020. He testified he was also planning to work at Graceful Touch, a cleaning and yard care business, that, according to his statement to DETS on August 24, 2020, never got going. Mr. Williams stated then that it was one his mother, Stephanie Williams, was going to get going, but the letter he submitted (unsigned) is from an “Eileen DalPoggetto,” not Stephanie Williams.

Mr. Williams stated that he was “in a dark placed” and down and depressed after the August 26, 2020 letter. He said he felt he was miseducated about his options, and that there was insufficient explanation of what he should do to get PUA benefits.

EXCERPTS OF RELEVANT PROVISIONS OF LAW

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.

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—

...

(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;...

APPLICATION


I find that 166 days passed before Mr. Williams filed his appeal of the adverse determination of his claim for PUA benefits. As the first excerpt above indicates, in order for the 30-day period for him to appeal to be relaxed, Mr. Williams must show that his failure to appeal on time was due to circumstances beyond his control. Mr. Williams did not show that this was the case. He felt depressed, but apparently not so much so that he was able to produce a medical provider's statement that diagnosed mental illness prevented him from pursuing his claim. He states he was "miseducated" but he did not describe in what way he was misled. The letter he received includes a clear statement that an appeal must be filed in 30 days from the letter's mailing date. Instead, he filed an appeal more than four months after the appeal period ended, during which he was receiving no payments. While "beyond the appellant's control" includes situations where the claimant attempts unsuccessfully to file an appeal, or an appeal is misconstrued by the DETS,¹ it is not so broad as to include a vague claim of "mishap" and "miseducation." Similarly, generally feeling down, depressed, or discouraged does not amount to the kind of event beyond the appellant's control,² especially over 166 days.

Even if he had been prevented by circumstances beyond his control from filing an appeal, the period can only be extended for a "reasonable time". The time should be "reasonable" in view of the circumstances presented. Here the circumstances related by Mr. Williams are vague and nonspecific. I find that it would be manifestly unreasonable to extend the appeal period 136 days beyond the 30-day appeal period in the circumstances. I conclude that the appeal is barred for failure to file it on time.

DECISION

The appeal is DISMISSED as untimely and the determination is AFFIRMED.

Dated: July 13, 2021,


Kris Knudsen
Administrative Law Judge

¹ See, e.g., *In re Thomas*, OAH No. 21-0170-PUA (Mar. 11, 2021); *In re Shaw*, OAH 21-0139-PUA (June 25, 2021); *In re Khatun*, OAH No. 21-0146-PUA (Mar. 1, 2021).

² *In re Shangin*, OAH No. 21-0084-PUA (Feb. 22, 2021). However, a person experiencing diagnosed mental illness could possibly assert that "events beyond the appellant's control" caused a delay in filing.

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 July 14, 2021, the foregoing decision was served on Travante Williams (by mail/email). A courtesy copy has been emailed to the DETS UI Technical Team, UI Support Team, and UI Appeals Team.

Office of Administrative Hearings