



APPEAL TRIBUNAL DECISION

Docket number: 24 0128 **Hearing date:** March 6, 2024

CLAIMANT:

OLIVIA MAGNI
[REDACTED]

CLAIMANT APPEARANCES:

Olivia Magni

DETS APPEARANCES:

None

CASE HISTORY

The claimant timely appealed a February 7, 2024 determination which denied benefits under AS 23.20.375 and 8 AAC 85.102. The issue before the Appeal Tribunal is whether the claimant met the Division's filing requirements.

FINDINGS OF FACT

On November 3, 2023, the claimant established a claim for unemployment insurance benefits effective October 29, 2023. The claimant transposed a number in her social security number and set up her claim under the incorrect social security number. The same day, the claimant filed a certification to claim benefits for the week ending October 28, 2023, the week before her claim was effective.

At the end of the claim application process, the claimant was advised that the first week for which she could file a certification to claim benefits for was the week ending November 4, 2023 and she could do that by accessing MyAlaska and choosing the unemployment insurance link between November 5, 2023 and November 11, 2023. The claimant checked a box on the application indicating she had read the notice.

The Division mailed an Unemployment Insurance Claimant Handbook to the claimant on November 6, 2023 and again on December 1, 2023. The claimant did not recall if she received the handbooks by mail, but she did recall reviewing the handbook on the Division's website.

The Tribunal takes notice of the Division's handbook, which explains under the bold heading, Filing Weekly Claims:

When you open a new claim or reopen an existing claim, you will be given dates for when to file your weekly claim. You must file every week or two to keep your claim active and to receive benefits. Weeks that are filed late may be disqualified.

The claimant could not recall if she attempted to file a certification between November 5, 2023 and November 11, 2023. She was very stressed about her unexpected job elimination, losing her housing and being required to live on a boat in the winter. The claimant believes her stress has affected her memory of this time as well as her actions at the time. The claimant did not have a car and did not check her Post Office box regularly. She used public computers at the library to search online for work and to access the Division's website. The claimant held that she did not understand the Division's weekly certification requirement as she had not claimed benefits previously. She recalled that she was only aware that she was required to report her work search efforts to the Division, and she kept a record of those searches.

On November 27, 2023, the Division became aware of a problem with the claimant's claim when the claimant's former federal employer rejected the Division's request for wages due to the incorrect social security number. The claimant was contacted and she provided copies of her identification documents with her correct social security number. The Division transferred the claimant's unemployment claim to the correct social security number on November 30, 2023 and the claimant was advised by phone to begin filing claims the next day. The claimant believed she told the Division representative that she was having problems accessing her MyAlaska account, although this was not documented by the representative who summarized the claimant's phone contacts with Division. The claimant could not recall what she was directed to do about her MyAlaska access issue. The Division representative noted that there was no evidence of further calls to the Division from the claimant until February 4, 2024. The claimant believed she had not received benefits during this period because of the problems with the incorrect social security number.

The claimant recalled that she contacted the MyAlaska help desk in early January and was assisted to access her MyAlaska account. The claimant could not recall why she waited that long to request assistance. After gaining access to MyAlaska, the claimant accessed her account on the Division's website and noted that no payments were pending. On February 4, 2024, the claimant contacted the Division to ask why she had not received benefits. It was explained to the claimant that she was not eligible for benefits because she had not filed certifications to claim benefits. The claimant requested to file certifications to claim benefits for weeks from the start of her claim up until the point she became re-employed. Certifications were taken by phone for weeks ending November 4, 2023 through January 6, 2024 and the certifications were

entered into the Division's computer system on February 7, 2024. The claimant provided her work search activities. The claimant's benefits for those weeks were denied because the certifications were not filed timely.

The claimant believed she had called the Division for assistance with her claim at other times before February 4, 2024, but she could not recall the dates or what contact was made. The record was left open for the claimant to provide phone records showing her attempts to get assistance, but no records were provided.

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 AS 23.20.360, 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 85.102 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 20.23.375 requires that in order to be eligible for benefits, a claimant must have an initial claim in place and must file a certification for that week. The claimant in this case established an initial claim, but then did not file certifications for the weeks because she was stressed and she did not understand that she was required to file weekly certifications, as well as problems accessing her MyAlaska account.

Regulation 8 AAC 85.102 requires that certifications be filed within seven days after the end of the week or seven days after the end of the bi-weekly (two week) filing period. The Division allows weekly or bi-weekly filing of certifications. The regulation holds a claimant may have good cause for filing a late certification if the delay is caused by circumstances beyond their control, such as 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 claim.

The claimant was advised during the claim application process of the dates during which she could file a certification to claim benefits for the first week of her claim. The claimant was advised of the requirement to file claims every week or every two weeks to claim benefits in the two handbooks that were mailed to her at the beginning of her claim and when her claim was transferred to her correct social security number. The claimant was advised of the requirement to

file weekly certifications in the handbook she reviewed on the Division's website. The claimant was advised to file "tomorrow" when her claim was transferred on November 30, 2023. The Tribunal cannot find that the Division failed to give the claimant sufficient or correct information to file her certifications.

The Division transferred the claimant's claim to the correct social security number promptly when identification was provided and processing delays within the Division did not cause the claimant to file late claims. Finally, although the claimant was understandably stressed about her job and housing losses, she has not established that her filing was delayed due to illness or disability or any such circumstance outside her control.

In Matchett, Com. Dec. 992621, January 10, 2000, the Commissioner held in part:

The unemployment insurance system also requires the filing of continuing claims on a bi-weekly basis wherein claimants certify to among other things, their availability for work and any earnings they may have had. If the continued claims are not filed on a timely basis, memories fade and there is a danger they will not be filed accurately. Allowing claims to be backdated for substantial periods, works against that goal. The statute requiring timely filing of claims is not frivolous.

The Tribunal cannot find that circumstances outside the claimant's control prevented timely filing of certifications to claim benefits. Benefits were properly denied.


DECISION

The determination issued on February 7, 2024 is **AFFIRMED**. Benefits remain **DENIED** for the weeks ending November 4, 2023 through January 6, 2024.

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 March 11, 2024.


Rhonda Bunes, Appeals Officer