



APPEAL TRIBUNAL DECISION

Docket number: 25 0076 **Hearing date:** February 21, 2025

CLAIMANT:

CHERYL CHANGSAK
[REDACTED]

CLAIMANT APPEARANCES:

CHERYL CHANGSAK

DETS APPEARANCES:

NONE

CASE HISTORY

The claimant timely appealed a January 25, 2025, determination which denied benefits under AS 23.20.378. The issue before the Appeal Tribunal is whether the claimant was available for work.

FINDINGS OF FACT

On December 20, 2024, the Division mailed a notice to the claimant's address of record, notifying her that she was required to participate in a reemployment assessment (RESEA). The notice advised the claimant to schedule and attend an in-person interview and complete any assigned activities by January 10, 2025.

A few days later, the claimant traveled from her residence in Anchorage, Alaska to Newhalen, Alaska to visit family.

On December 29, 2024, the claimant saw a message in her inbox on AlaskaJobs, advising her she was selected for the RESEA. She attempted to schedule an appointment on the AlaskaJobs website, but she was unable to make an appointment.

The next day, the claimant called the Job Center and left a voicemail message requesting assistance. Over the next several weeks, the claimant sent several email messages to the Job Center and left several more voicemail messages. However, she received no response. The claimant could not go to her local Job

Center in person because she was still in Newhalen.

The third week of January 2025, the claimant returned to Anchorage. She continued to try and call and email the Job Center without success. The claimant did not go to the Job Center in person because she shares a car with her husband, and he used the car for work during the day. She did not try to take public transportation, such as the bus, because she did not know how to ride the bus and was afraid of getting lost.

On February 3, 2025, the claimant contacted the unemployment office about the lack of response from the Job Center. A representative advised her she should go in person to schedule the interview. The claimant has not completed the RESEA as of this date.

PROVISIONS OF LAW

AS 23.20.378 provides:

- (a) An insured worker is entitled to receive waiting-week credit or benefits for a week of unemployment if for that week the insured worker is able to work and available for suitable work....

8 AAC 85.350:

- (a) A claimant is considered able to work if the claimant is physically and mentally capable of performing work under the usual conditions of employment in the claimant's principal occupation or other occupations for which the claimant is reasonably fitted by training and experience.
- (b) A claimant is considered available for suitable work for a week if the claimant
 - (1) registers for work as required under 8 AAC 85.351;
 - (2) makes independent efforts to find work as directed under 8 AAC 85.352 and 8 AAC 85.355;
 - (3) meets the requirements of 8 AAC 85.353 during periods of travel;
 - (4) meets the requirements of 8 AAC 85.356 while in training;
 - (5) is willing to accept and perform suitable work which the claimant does not have good cause to refuse;
 - (6) is available, for at least five working days in the week, to respond promptly to an offer of suitable work; and
 - (7) is available for a substantial amount of full-time employment.

8 AAC 85.355:

The director may review a claimant's registration for work and availability for work at any time during the benefit year. As part of the review, the director shall consider the claimant's training, experience, length of unemployment, plan for obtaining work, barriers to reemployment, and work prospects. On the basis of the review, the director may assign to the claimant new suitable occupation codes, change the claimant's registration for work, assign the claimant to reemployment services or instruct the claimant to make independent attempts to find work that are appropriate for the occupation and labor market. If the claimant fails without good cause to participate in the review, participate in reemployment services as directed by the director, or follow instructions of the division to help the claimant find suitable work, the director shall determine the claimant was not available for work.

8 AAC 85.357 provides:

- (a) A claimant is not available for work for any week in which the claimant fails to participate in reemployment services if the claimant has been determined by the director likely to exhaust regular benefits and need reemployment services, unless the claimant has
 - (1) completed the reemployment services; or
 - (2) has good cause under (b) of this section for failure to participate in the reemployment services.
- (b) The director shall find that a claimant has good cause for failure to participate in reemployment services or related services under (a) of this section if the cause would lead a reasonable and prudent person not to participate in those services and the claimant took the actions that a reasonable and prudent person would take in order to participate. A claimant no longer has good cause when the cause preventing participation ends. Good cause includes
 - (1) circumstances beyond the claimant's control;
 - (2) circumstances that waive the availability for work requirement in AS 23.20.378;
 - (3) attendance at training approved under AS 23.20.382 and 8 AAC 85.200; and
 - (4) referral to reemployment services that the director determines was made incorrectly.

CONCLUSION

Regulation 8 AAC 85.357, above, holds that a claimant is not available for work in any week in which the claimant fails to participate in reemployment services, unless the failure to participate is caused by circumstances beyond the claimant's control.

The claimant was aware of the requirement to complete the RESEA and attempted to schedule an appointment timely. However, after she was not able to contact the Job Center by phone or email. It would have been reasonable to go to the Job Center in person.

The claimant did not go in person to schedule the RESEA because she was traveling for several weeks, and when she returned, she had limited transportation. Neither reason establishes a circumstance outside of the claimant's control. Therefore, the claimant cannot be considered available for work during the period under review.

DECISION

The determination issued on January 25, 2025, is **AFFIRMED**. Benefits remain **DENIED** beginning the week ending January 11, 2025.

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 February 26, 2025.



Justin Karaffa, Appeals Officer