



STATE OF NEW YORK

UNEMPLOYMENT INSURANCE APPEAL BOARD

PO Box 15126

Albany NY 12212-5126

DECISION OF THE BOARD

Mailed and Filed: JULY 26, 2021

IN THE MATTER OF:

Appeal Board No. 614832

PRESENT: GERALDINE A. REILLY, MEMBER

In Appeal Board Nos. 614831 and 614832, the claimant appeals from the decisions of the Administrative Law Judge filed March 26, 2021, which sustained the initial determinations holding the claimant ineligible to receive benefits, effective March 23, 2020 through March 29, 2020, on the basis that the claimant failed to certify for the benefit period within the seven-day period for such certification; and holding the claimant ineligible to receive benefits, effective March 30, 2020 through May 17, 2020, on the basis that the claimant did not comply with registration requirements.

At the combined telephone conference hearing before the Administrative Law Judge, all parties were accorded a full opportunity to be heard and testimony was taken. There was an appearance by the claimant.

Based on the record and testimony in this case, the Board makes the following

FINDINGS OF FACT: The claimant filed an unemployment insurance claim on September 29, 2020, effective March 26, 2020. He filed online with the assistance of his stepson, who helped him file the claim in English. Prior to September 29, the claimant made many attempts to file his claim by telephone, but he was unable to get through.

The claimant understood that he had to certify for benefits each week. His stepson told him that he needed to recertify each Sunday.

On October 10, 2020, a secure message was sent from the claimant's online unemployment account to the Department of Labor. The message said, in part, "I

received an undated NYS Department of Labor letter stating that I must claim credit for unpaid waiting week March 22, 2020 through March 28, 2020. However, when I go into my account I do not have access to go back to claim these dates."

Someone from the Department of Labor called the claimant on November 13, 2020 and left a voicemail message for the claimant in Spanish telling the claimant to call back. The claimant called back multiple times, but no one answered his calls.

OPINION: The credible evidence establishes that the claimant tried to claim credit for his waiting week and claim weekly benefits, but he was unable to do so without assistance from the Department of Labor. The claimant or someone acting on his behalf advised the Department that he needed help, and the claimant received a voice message telling him to call back. The claimant repeatedly called back as instructed, but no one answered his calls. These facts establish that the claimant's failure to comply with the Department of Labor's certification and registration requirements were beyond his control. Therefore, his failure to satisfy these requirements should be excused. Accordingly, we conclude that the claimant is eligible for benefits.

DECISION: The decisions of the Administrative Law Judge is reversed.

The initial determinations, holding the claimant ineligible to receive benefits, effective March 23, 2020 through March 29, 2020, on the basis that the claimant failed to certify for the benefit period within the seven-day period for such certification; and holding the claimant ineligible to receive benefits, effective March 30, 2020 through May 17, 2020, on the basis that the claimant did not comply with registration requirements, are overruled.

The claimant is allowed benefits with respect to the issues decided herein.
(Al reclamante se le asignan beneficios con respecto a los temas decididos en el presente.)

GERALDINE A. REILLY, MEMBER