

State of Wisconsin



Labor and Industry Review Commission

Kathryn Thom
Claimant

Unemployment Insurance
Decision¹

Hearing No. 20200847MW

Dated and Mailed:

August 31, 2020
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The commission **reverses** the appeal tribunal decision. Accordingly, the claimant is eligible for benefits beginning in week 13 of 2020, if otherwise qualified.

By the Commission:

/s/

Michael H. Gillick, Chairperson

/s/

David B. Falstad, Commissioner

/s/

Georgia E. Maxwell, Commissioner

¹ **Appeal Rights:** See the blue enclosure for the time limit and procedures for obtaining judicial review of this decision. If you seek judicial review, you **must** name the following as defendants in the summons and the complaint: the Labor and Industry Review Commission, all other parties in the caption of this decision or order (the boxed section above), and the Department of Workforce Development. Appeal rights and answers to frequently asked questions about appealing an unemployment insurance decision to circuit court are also available on the commission's website, <http://lirc.wisconsin.gov>.

Procedural Posture

This case is before the commission to consider the claimant's eligibility for unemployment insurance benefits. An administrative law judge (ALJ) of the Unemployment Insurance Division of the Department of Workforce Development held a hearing and issued a decision. The commission received a timely petition for review. The commission has considered the petition, and it has reviewed the evidence submitted at the hearing.

Findings of Fact and Conclusions of Law

1. The claimant opened a claim for unemployment benefits on March 25, 2020 (week 13). The claimant was not unemployed but was working reduced hours.
2. After starting her claim, the claimant received instructions that she was required to register for work
3. The claimant was confused by the instructions based in part on seeing information on a department website indicating that she was not required to perform a job search and in part because was still employed.
4. The claimant made multiple attempts to contact the department for clarification but was unable to reach the department.
5. The claimant failed to register for work due to circumstances beyond her control.

Memorandum Opinion

To be eligible for benefits in a week, a claimant must register for work unless the work registration requirement is waived.² The department may waive the work registration requirement if the claimant was summoned to serve as a prospective or impaneled juror; is enrolled in and is satisfactorily participating in approved training, a work share program, a self-employment assistance program, or another state or federally-enacted program that waives the work search requirement; or was unable to register due to circumstances the department determines were beyond the claimant's control. The department may also waive the work registration requirement if the claimant has been laid off, but has a reasonable expectation of returning to work for his or her employer within 8 weeks, which may be extended an additional 4 weeks, or beginning work with a new employer within 4 weeks, or the claimant normally obtains work through a union referral.³

Here, the claimant's failure to register for work was due to circumstances beyond her control. The claimant was confused about whether she was required to register for work based on the fact that she was still employed and was provided information that she did not have to search for work. The requirement to register for work is separate from the requirement to search for work. Normally, the claimant would be expected to contact the department to clarify her responsibilities. However, in this time of pandemic the claimant was unable to do so.

² Wis. Stat. § 108.04(2)(a)2. and (b).

³ Wis. Admin. Code § DWD 126.03.

NOTE: The commission did not consult with the ALJ because the reversal was not based on a differing view as to the credibility of witnesses whose testimony conflicted. Instead, the reversal was based on the claimant's unrefuted testimony.