

because she failed to timely file for unemployment benefits while her appeal was pending. Discerning no error, we affirm the Board.

The facts of this case are not in dispute. Claimant filed an internet claim for unemployment compensation benefits on January 25, 2010, following her involuntary separation from employment with the pharmacy of St. Luke's Hospital. On February 18, 2010, the Unemployment Compensation (UC) Service Center issued a Determination finding her ineligible for benefits. Claimant timely appealed that determination. However, she stopped filing for benefits during her pending appeal and did not reactivate her claim until April 19, 2010. On May 6, 2010, a Referee issued a decision reversing the initial determination and finding Claimant eligible for benefits. The UC Service Center then granted Claimant four weeks of predating of claims pursuant to UC Regulation 34 Pa. Code §65.33,²

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accordance with such regulations as the secretary may prescribe. . . .

² The UC regulations set forth specific reasons for which predating a claim for compensation may be permitted. 34 Pa. Code § 65.33 provides, in pertinent part, as follows:

(a) A claim for a week of total, partial or part-total unemployment may be deemed to be constructively filed as of the first day of a calendar week previous to the week which includes the day on which it is actually filed when, in the opinion of the Bureau, the claimant was prevented, through no fault of his own, from filing his claims during the week immediately subsequent to the week for which the claim is filed because of one or more of the following reasons:

. . .

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allowing her a waiting week ending March 27, 2010, and compensable weeks ending April 3, 10, and 17, 2010. Claimant appealed, arguing that her benefits should be predated to waiting week ending January 30, 2010, when she filed her initial claim, and that she should be compensated for the period of February 6, 2010, through March 20, 2010.

Claimant was not represented at the hearing before the Referee. She indicated that she had not spoken to the attorney who represented her in her initial case “in quite some time,” but that she sent him the paperwork regarding the present hearing. (Reproduced Record (R.R.) at 7a). The Referee explained Claimant’s rights and admitted that his office failed to send Claimant’s attorney notice regarding the hearing. (R.R. at 8a). The Referee asked Claimant several times if she wanted to proceed without her attorney, to which Claimant answered yes she did. (R.R. at 8a-9a).

Claimant testified that after she received the initial notice that she was deemed ineligible for benefits, she did not continue to file claims or contact the UC Service Center because she “thought that was it.” (R.R. at 11a). She stated, “So, I thought that was it. I applied for unemployment. I was found ineligible.” (R.R. at 12a). The Referee asked why she failed to continue to file for benefits while her appeal was pending, despite the fact that all the paperwork she received indicated

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(8) An appeal of a claimant from disqualification may permit not more than 4 weeks of predating while the appeal is pending.

that she should do so. Claimant responded by stating that after she lost her job she went into a horrible depression, fell apart, and her doctor put her on medication. However, Claimant testified that she was capable of working at that time and that she continually looked for employment. Claimant admitted that she did not read the appeals pamphlet that was provided to her or the initial determination finding her ineligible. She began filing for benefits again in April 2010, on the advice of her father and her attorney.

The Referee issued a decision finding Claimant ineligible for benefits pursuant to Section 401(b) of the Law because she failed to timely file for benefits each week while her initial appeal was pending. The Referee found that Claimant did not read the appeals pamphlet, the appeal form, or the handbook published by the Bureau, all of which advise that you must continue to file claims while your appeal is pending if you remain unemployed. In addition, the Referee found that Claimant was not misled or misadvised regarding her rights, and that while she suffered from depression, she was generally able and available for work and was not incapacitated during the time frame at issue. Claimant appealed to the Board, which affirmed the Referee's decision. This appeal followed.³

On appeal, Claimant argues that the Board misapplied the predating rules found in the UC regulations, specifically 34 Pa. Code §65.33. According to

³ The Court's scope of review in this matter is limited to determining whether there was a constitutional violation or error of law, whether any practice or procedure of the Board was not followed, and whether the necessary findings of fact are supported by substantial evidence. *Glenn v. Unemployment Compensation Board of Review*, 928 A.2d 1169, 1171 n.1 (Pa. Cmwlth. 2007).

Claimant, she applied for benefits on a timely basis because she applied immediately upon her termination. While her benefit application was initially denied, this decision was later reversed and Claimant was found eligible for benefits. Claimant argues that because her initial application was timely, her award of benefits should have been retroactive to her initial claim date in January 2010, not waiting week ending March 27, 2010. However, this argument is without merit.

It is admitted that Claimant timely filed her initial application for unemployment compensation benefits; that is not the issue. What is at issue is whether or not Claimant complied with the reasonable reporting requirements of Section 401(b) of the Law. Section 401(b) states that in order to be eligible for benefits, a claimant must “register[] for work at, and thereafter continue[] to report to an employment office in accordance with such regulations as the secretary may prescribe.” 43 P.S. §801(b). We have repeatedly held that these “weekly reporting requirements are necessary so that contact between the claimant and the job center is constant and regular, whether it be by mail claims or physical reporting, so as to enable the unemployed to secure employment promptly if a satisfactory job becomes available.” *Menalis v. Unemployment Compensation Board of Review*, 712 A.2d 804, 805 (Pa. Cmwlth. 1998) (citing *Stanek v. Unemployment Compensation Board of Review*, 295 A.2d 198 (Pa. Cmwlth. 1972)). See also *Micheltree v. Unemployment Compensation Board of Review*, 635 A.2d 701, 704 (Pa. Cmwlth. 1993) (stating “it is the responsibility of the claimant to contact the [UC Service Center] personally to file a claim for benefits and to comply with reporting requirements.”)).

Claimant admitted that she did not comply with the weekly reporting requirements until April 19, 2010, and that she did so then only at the urging of her father and attorney. Claimant freely admitted that she did not read any of the paperwork provided to her regarding her claim, which repeatedly states the need to continue to file for benefits while an appeal is pending. Claimant simply believed that when her initial claim was denied, there was no need for her to continue to file weekly claims. In addition, the Board found that Claimant was not misled or misinformed about the reporting requirements, and Claimant made no such allegation and presented no evidence that she was misinformed.

34 Pa. Code §65.33(a)(8) does allow for predating while an appeal from disqualification is pending. However, predating is limited to no more than 4 weeks under this subsection, the amount that Claimant was granted. Because Claimant did not meet any of the other situations in which predating is permitted, the Board properly denied her claim for predating back to January 2010, the date of her initial claim.⁴

⁴ Claimant also argues on appeal that the Referee improperly convinced her to waive her right to counsel. Claimant's counsel filed the appeal indicating that he was representing her, yet the Referee admitted that his office failed to send counsel notice of the hearing. Claimant argues that under these circumstances the hearing should have been continued and that it was inappropriate for the Referee to question Claimant about waiving her right to counsel. However, because Claimant failed to raise this issue in her appeal to the Board it is waived. *Reading Nursing Center v. Unemployment Compensation Board of Review*, 663 A.2d 270 (Pa. Cmwlth. 1995) (citing *Tri-State Scientific v. Unemployment Compensation Board of Review*, 589 A.2d 305 (Pa. Cmwlth. 1991)). We note that the Referee fully informed Claimant of her rights, including the right to counsel, and repeatedly asked if she wished to proceed with the hearing. The colloquy between the Referee and the Claimant in this case appears to be appropriate, and there are no indications that Claimant was pressured or coerced into waiving her rights.

Accordingly, the order of the Board is affirmed.

DAN PELLEGRINI, JUDGE

