

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Melissa A. Kandratavich,	:	
Petitioner	:	
	:	
v.	:	
	:	
Unemployment Compensation	:	
Board of Review,	:	No. 943 C.D. 2025
Respondent	:	Submitted: September 14, 2026

BEFORE: HONORABLE CHRISTINE FIZZANO CANNON, Judge
HONORABLE LORI A. DUMAS, Judge
HONORABLE BONNIE BRIGANCE LEADBETTER, Senior Judge

OPINION NOT REPORTED

MEMORANDUM OPINION
BY JUDGE FIZZANO CANNON

FILED: October 27, 2026

Melissa A. Kandratavich (Claimant), *pro se*, petitions for review from the June 23, 2025 order of the Unemployment Compensation Board of Review (Board), which affirmed the Referee’s decision dismissing Claimant’s appeal as untimely pursuant to Section 501(e) of the Unemployment Compensation (UC) Law.¹ Upon review, we affirm.

I. Background

Claimant filed a Pandemic Unemployment Assistance (PUA) claim with an application for benefits effective February 16, 2020.² Certified Record

¹ Act of December 5, 1936, Second Ex. Sess., P.L. (1937) 2897, *as amended*, 43 P.S. § 821(e).

² PUA was a program established by the Coronavirus Aid, Relief, and Economic Security Act of 2020 (CARES Act) to provide unemployment benefits to “covered individuals” ineligible under regular UC programs. 15 U.S.C. § 9021(a)(3)(A)(i).

(C.R.) at 7. On February 6, 2023, the Department of Labor and Industry (Department) issued a determination which found Claimant ineligible for PUA benefits effective December 27, 2020, to September 4, 2021, for failure to provide the required documentation within 90 days of the notification dated December 27, 2020 (Disqualifying Determination). *Id.* at 27. The last day to file a timely appeal of the Disqualifying Determination was February 27, 2023. *Id.* Also on February 6, 2023, the Department issued a separate determination which found Claimant eligible for PUA benefits effective February 16, 2020, as she had provided sufficient information to verify her identity (Qualifying Determination). *Id.* at 41. However, the Qualifying Determination expressly advised Claimant that she “may receive multiple decisions on [her] claim,” and to “note that any one denial decision supersedes all other decisions.” *Id.* Like the Disqualifying Determination, the last day to file a timely appeal of the Qualifying Determination was February 27, 2023. *Id.*

Between February 12, 2023, and February 21, 2023, Claimant attempted to timely appeal the Disqualifying Determination online through Pennsylvania’s UC System due to the superseding denial language contained in the Qualifying Determination. C.R. at 251. However, she received an error message which stated that she was “not allowed to appeal this determination, which is in your favor.” *Id.* Claimant did not proceed further and expected payment as a result of the Qualifying Determination. *Id.* at 342. When Claimant did not receive her PUA benefits, she contacted a UC Service Center help line. *Id.* at 56. Claimant alleged that she had already filed a request for a hearing, but that a UC representative informed her that such request was never received because it was “filed with [her]

twin sister's PUA claim.” *Id.* The representative advised Claimant to file an appeal via mailed letter, which Claimant did on April 10, 2023. *Id.*

On July 19, 2024, a Referee held a telephone hearing on Claimant's appeal, at which she requested a continuance so that she could appear and testify before the Referee in person. C.R. at 186 & 188. The Referee granted this request and adjourned the telephone hearing without taking any testimony from Claimant. *Id.* at 189 & 192. On September 25, 2024, the Referee continued the hearing to October 9, 2024, and both emailed and mailed a hearing notice for the continued hearing to Claimant at her email and mailing addresses of record. *Id.* at 196, 204 & 327.

The in-person hearing was reconvened as scheduled on October 9, 2024, but Claimant failed to appear. C.R. at 207-08. An online notification from the UC Claims System showed delivery of the notice of hearing to Claimant's email address. *Id.* at 204. The mailed hearing notice was not returned as undeliverable, and Claimant did not contact the Referee's office to say she was running late or could not appear for any other purpose. *Id.* at 207. On October 31, 2024, the Referee issued a decision dismissing Claimant's appeal as untimely under Section 501(e) of the UC Law.³ *Id.* at 209 & 214. Claimant filed a timely appeal to the Board, which

³ Section 501(e) of the UC Law states:

Unless the claimant or last employer or base-year employer of the claimant files an appeal with the [B]oard, from the determination contained in any notice required to be furnished by the [D]epartment . . . , no later than twenty-one calendar days after the “Determination Date” provided on such notice, and applies for a hearing, such determination of the [D]epartment, with respect to the particular facts set forth in such notice, shall be final and compensation shall be paid or denied in accordance therewith.

43 P.S. § 821(e).

remanded the appeal to the Referee to take evidence on Claimant's nonappearance at the previous hearing, as well as on the merits and timeliness of Claimant's appeal. *Id.* at 226-27 & 313. However, the Board expressly instructed that the evidence on the merits and the timeliness of Claimant's appeal "may not be considered" if the "Board [found] that [] [C]laimant did not have proper cause for her nonappearance at the previous hearing." *Id.* at 313. The parties were also advised that the Board would be considering the documented notifications recorded in the UC Claims system relevant to whether Claimant received notice of the continued hearing. *Id.*

On March 17, 2025, the Referee conducted a remand hearing at which Claimant appeared and testified. C.R. at 329-50. Claimant testified that she never received the October 9, 2024 hearing notice in the mail, but she confirmed that her mailing address of record was correct. *Id.* at 334 & 336. She had received the prior telephone hearing notice and subsequent Board documents at that same address. *Id.* at 336. Claimant also acknowledged that her email address of record was correct, but she alleged that she did not receive the hearing notice via email, either. *Id.* at 336-37. The Referee took additional testimony as to the timeliness of Claimant's appeal and her production of the necessary documents to qualify for PUA. *Id.* at 337 & 346. On June 23, 2025, the Board issued a Decision and Order, finding that Claimant lacked good cause for her nonappearance at the continued hearing because Claimant "did not present sufficient credible evidence to overcome the presumption of receipt under the mailbox rule." *Id.* at 352. Therefore, the Board adopted and incorporated the Referee's findings and conclusions from the Referee's October 31, 2024 decision dismissing Claimant's appeal as untimely pursuant to Section 501(e) of the UC Law. *Id.* Claimant now petitions for review with this Court.

II. Issues

Before this Court,⁴ Claimant sets forth several arguments, which we summarize and reorder as follows. First, Claimant argues that the Board’s June 23, 2025 order was impermissibly based on the Referee’s October 31, 2024 decision, and that the Board “admit[ted] to not considering any of the testimony at the [March 17, 2025] hearing.” Petitioner’s Br. at 4. Second, Claimant argues that “[c]omputer errors and mail delivery mistakes” were responsible for her nonappearance at the October 9, 2024 hearing. *Id.* at 7. Claimant maintains that the Board’s reliance on the mailbox rule⁵ in its order is “an unfair, unlawful rule created by the Department [] to deny legitimate unemployment claims.” *Id.* at 4. Claimant also argues that her “appeals”⁶ were timely and that she was aggrieved by the Board’s June 23, 2025 decision because she was eligible for PUA benefits.

The Board first argues that it had no basis to consider Claimant’s testimony on the merits and the timeliness of her appeal because Claimant lacked good cause for her nonappearance at the October 9, 2024 hearing. Board’s Br. at 5. The Board maintains that the mailbox rule is a “well-established precept[] of [UC]

⁴ This Court’s review is limited to determining “whether constitutional rights were violated, whether an error of law was committed, or whether necessary findings of fact were [not] supported by substantial evidence.” *Hessou v. Unemployment Comp. Bd. of Rev.*, 942 A.2d 194, 197 n.3 (Pa. Cmwlth. 2008) (citing *Sheets v. Unemployment Comp. Bd. of Rev.*, 708 A.2d 884, 885 n.3 (Pa. Cmwlth. 1988)).

⁵ The mailbox rule “creates a rebuttable presumption that an item which is properly mailed will be received.” *C.E. v. Dep’t of Pub. Welfare*, 97 A.3d 828, 832 (Pa. Cmwlth. 2014) (citations omitted).

⁶ Claimant appears to characterize several actions requiring verification of identity as appeals, all of which occurred prior to the institution of the present action. *See* Petitioner’s Br. at 4-6 & 9-12. She also references an appeal from 2021, which has no bearing on this matter. *Id.* at 6.

[L]aw,” such that the Board enjoys a presumption of mailing and receipt subject to rebuttal by Claimant. *Id.* Second, the Board asserts that Claimant’s appeal was untimely pursuant to Section 501(e) of the UC Law because Claimant failed to appear to present competent evidence to show good cause for her untimely appeal. *Id.* at 13.

III. Discussion

Under Section 501(e) of the UC Law, 43 P.S. § 821(e), a claimant must appeal a notice furnished by the Department to the Board within 21 calendar days from the “determination date” on such notice. A statutory appeal deadline is mandatory and a claimant’s failure to timely appeal within the deadline is a jurisdictional defect, which this Court cannot overlook or disregard. *Carney v. Unemployment Comp. Bd. of Rev.*, 181 A.3d 1286, 1288 (Pa. Cmwlth. 2019); *Hessou v. Unemployment Comp. Bd. of Rev.*, 942 A.2d 194, 197 (Pa. Cmwlth. 2008). To justify an untimely appeal and obtain *nunc pro tunc* relief, a claimant bears a heavy burden of demonstrating extraordinary circumstances involving (1) fraud or a breakdown in the administrative authority’s operation or (2) non-negligent conduct of the claimant that was beyond her control. *Hessou*, 942 A.2d at 198.

When given the opportunity to challenge the issue of timeliness, Claimant failed to appear at her hearing. If a party is “notified of the date, hour and place of a hearing and fails to attend a hearing without proper cause, the hearing may be held in his absence.” 34 Pa. Code § 101.51.⁷ Notice is defined by the Board’s regulations as follows:

⁷ We note that this matter is governed by an older version of Section 101.51, 34 Pa. Code § 101.51, prior to its amendment on May 15, 2026.

Mailing of notices, orders or decisions of a referee, or of the Board to the parties at their last known addresses, or issuance by electronic transmission, based on the party's preferred method of notification as designated in the Pennsylvania UC Claims System, shall constitute notice of the matters therein contained.

34 Pa. Code § 101.53. If all parties are absent after being notified, a decision may be made by a referee based upon the “pertinent available records.” *Id.* § 101.51. Where a party appeals such a determination and requests another hearing, the Board will determine whether the previously established record is sufficiently complete and adequate such that the Board is able to render an appropriate decision. *Id.* § 101.104(c). If the Board determines that the previously established record is incomplete, the Board may direct the taking of additional evidence, particularly where a party “asserts a reason for [her] nonappearance at the prior hearing which may constitute ‘proper cause’ for not appearing . . . if it appears that the testimony and evidence would be competent and relevant to the issues involved[.]” *Id.* § 101.104(c)(4). A claimant's nonappearance due to a failure to receive, or timely receive, a hearing notice may constitute “proper cause” to justify reopening a hearing. *Verdecchia v. Unemployment Comp. Bd. of Rev.*, 657 A.2d 1341, 1343-44 (Pa. Cmwlth. 1995); *Lamison v. Unemployment Comp. Bd. of Rev.* (Pa. Cmwlth., No. 1213 C.D. 2019, filed July 30, 2020).⁸

Claimant disputes receipt of the October 9, 2024 notice of hearing both via email and regular mail, which we differentiate under separate legal standards. Under the “mailbox rule,” a party is presumed to have received mailed notice “[w]here notice, mailed to a party's last known address, is not returned by the postal

⁸ Under Section 414(a) of this Court's Internal Operating Procedures, an unpublished opinion of this Court issued after January 15, 2008, although not binding precedent, may be cited for its persuasive value. 210 Pa. Code § 69.414(a).

authorities as undeliverable[.]” *John Kenneth, Ltd. v. Unemployment Comp. Bd. of Rev.*, 444 A.2d 824, 826 (Pa. Cmwlth. 1982). Mere testimony denying a claimant’s receipt of a mailed item will not rebut the presumption of receipt. *Dep’t of Transp., Bureau of Driver Licensing v. Grasse*, 606 A.2d 544, 546 (Pa. Cmwlth. 1991); see also *Janick v. Unemployment Comp. Bd. of Rev.*, 383 A.2d 973, 974-75 (Pa. Cmwlth. 1978) (rejecting claimant’s assertion that she never received notice of hearing where the record contained the hearing notice in question sent to claimant and her attorney); *Anker v. Unemployment Comp. Bd. of Rev.* (Pa. Cmwlth., No. 434 C.D. 2010, filed December 29, 2010) (holding that claimant’s assertion that she did not receive a notice of hearing could not overcome the presumption of receipt where notice was sent to her correct address and was not returned to the Board as undeliverable); *Poplawski v. Unemployment Comp. Bd. of Rev.* (Pa. Cmwlth., No. 2612 C.D. 2009, filed June 30, 2010) (rejecting claimant’s argument of no receipt where claimant’s correct address was used and claimant had previously received other Board documents at the same address).

Here, Claimant relies only on her own testimony to rebut the presumption of receipt and fails to cite any legal authority to support her contention that the mailbox rule is inapplicable. As there is no evidence that the hearing notice was returned as undeliverable and Claimant had received other Board documents at her confirmed mailing address, her testimony cannot defeat the presumption of receipt via mailed letter. See *Grasse*, 606 A.2d at 546; *Anker*, slip op. at 5; *Poplawski*, slip op. at 5-7.

In considering Claimant’s argument that she never received the hearing notice via email, we note that the mailbox rule does not apply to electronic transmissions. See *Roman-Hutchinson v. Unemployment Comp. Bd. of Rev.*, 972

A.2d 1286, 1288-89 (Pa. Cmwlth. 2009). However, this Court has held that proper cause for nonappearance will not be shown where a recorded UC Claims System notification was not returned as undeliverable and was sent to a claimant's confirmed email address of record. *See Grey-Cannon v. Unemployment Comp. Bd. of Rev.* (Pa. Cmwlth., No. 1664 C.D. 2024, filed April 15, 2026) (citing *Gadsden v. Unemployment Comp. Bd. of Rev.*, 479 A.2d 74, 76 (Pa. Cmwlth. 1984)); *Detwiler v. Unemployment Comp. Bd. of Rev.* (Pa. Cmwlth., No. 349 C.D. 2025, filed July 16, 2026).

Instantly, Claimant argues that she never received the email notice. Petitioner's Br. at 8. However, the UC Claims System's email log shows that the Referee's office emailed a notice of the continued hearing to Claimant's email address of record on September 25, 2024. C.R. at 204. The "status" states that delivery was a "success"; thus, the email was not returned as undeliverable. *Id.* Further, the record contains an identical "success status" notification from a separate UC Claims System email log entry when Claimant *did* receive an email notification. *Id.* at 38 & 336 & 338. The Board expressly advised the parties prior to the March 17, 2025 hearing that it would be considering the documented notifications recorded in the UC Claims System relevant to whether Claimant received notice of the continued hearing. *Id.* at 313.

Because the Board is the ultimate fact-finder, its "findings are conclusive on appeal so long as the record, taken as a whole, contains substantial evidence to support those findings." *Hessou*, 942 A.2d at 198 (citing *Taylor v. Unemployment Comp. Bd. of Rev.*, 378 A.2d 829, 831 (Pa. 1977)). Therefore, the Board properly determined that the notice of hearing was successfully delivered, as it was not returned as undeliverable and Claimant had received notices at the same

email address prior where the UC Claims System email log documented successful delivery. *See Bell v. Unemployment Comp. Bd. of Rev.*, 921 A.2d 23, 26 n.4 (Pa. Cmwlth. 2007) (“Questions of credibility and the resolution of evidentiary conflicts are within the discretion of the [Board] and are not subject to re-evaluation on judicial review.”).

Because the Board found that the notice of hearing was successfully delivered via email and mail, it did not err in determining that Claimant failed to sustain her burden to establish proper cause for nonappearance at the October 9, 2024 hearing. As a result of that determination, the Board could not consider Claimant’s testimony during the remand hearing as to the timeliness and merits of the matter. C.R. at 313-14; 34 Pa. Code § 101.104(c)(4). As Claimant’s testimony could not be considered, there was not sufficient evidence of record to justify *nunc pro tunc* relief, and the appeal was properly dismissed as untimely.⁹ *See Hessou*, 942 A.2d at 198.

⁹ The existence of an administrative error does not, standing alone, establish entitlement to *nunc pro tunc* relief. Claimant was required to demonstrate that the alleged breakdown caused her untimely filing. *See Greene v. Unemployment Comp. Bd. of Rev.*, 157 A.3d 983, 992 (Pa. Cmwlth. 2017) (holding that agency misinformation warranting *nunc pro tunc* relief must concern the availability, timing, or necessity of an appeal); *Wanner v. Unemployment Comp. Bd. of Rev.* (Pa. Cmwlth., No. 1786 C.D. 2017, filed January 9, 2019) (holding that this Court’s “analysis for determining whether *nunc pro tunc* relief may be granted centers on ***what caused the untimely appeal***”) (emphasis in original); *see also* 210 Pa. Code § 69.414(a) (permitting unreported decisions of the Commonwealth Court issued after January 15, 2008, to be cited for their persuasive value). Here, Claimant immediately attempted to timely appeal the Qualifying and Disqualifying Determinations upon receipt of both determinations. *See* C.R. at 251. Therefore, the Department’s issuance of both cannot be construed as an administrative breakdown that caused her untimely appeal. Likewise, Claimant’s allegations regarding the alleged mix up with her twin sister’s appeal have no causal relation to her untimely appeal, as the alleged mix up was resolved on January 24, 2023, before the Disqualifying Determination was rendered on February 6, 2023. C.R. at 27 & 126.

IV. Conclusion

Based on the foregoing discussion, the June 23, 2025 order of the Board is affirmed.

CHRISTINE FIZZANO CANNON, Judge

Even assuming, *arguendo*, that Claimant encountered a technical error attributable to the Department when attempting to file her appeal electronically, Claimant received appeal instructions identifying alternative filing methods but did not pursue another method until approximately two months later. C.R. at 28 & 56; *see also Dull v. Unemployment Comp. Bd. of Rev.*, 955 A.2d 1077, 1080-81 (Pa. Cmwlth. 2008) (holding that an alleged administrative breakdown justifying *nunc pro tunc* relief does not exist where a “[c]laimant exercised no diligence at all” by failing to contact the UC Service Center upon requiring assistance with the appeal process); *Zimmerman v. Unemployment Comp. Bd. of Rev.* (Pa. Cmwlth., No. 1287 C.D. 2024, filed January 13, 2026) (stating that a claimant fails to act diligently where he does not utilize alternative appeal methods upon learning that his online appeal was not transmitted). A screenshot of a technical error, absent Claimant’s explanatory testimony, does not establish that the Department’s conduct, rather than Claimant’s subsequent failure to pursue alternative appeal methods, caused the untimely appeal. *See* C.R. at 251.

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Petitioner	:	
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v.	:	
	:	
Unemployment Compensation	:	
Board of Review,	:	No. 943 C.D. 2025
Respondent	:	

ORDER

AND NOW, this 27th day of October, 2026, the June 23, 2025 order of the Unemployment Compensation Board of Review is AFFIRMED.

CHRISTINE FIZZANO CANNON, Judge