

EMPLOYMENT APPEALS BOARD DECISION

2014-EAB-0426

Affirmed
Ineligible

PROCEDURAL HISTORY: On January 28, 2014, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant had not filed her claim for benefits for the period October 20, 2013 to November 30, 2013 (weeks 43-13 through 48-13) in accordance with the rules (decision #105517). Claimant filed a timely request for hearing. On March 13, 2014, ALJ Wyatt conducted a hearing, and on March 14, 2014 issued Hearing Decision 14-UI-12552, affirming the Department's decision. On March 19, 2014, claimant filed an application for review with the Employment Appeals Board (EAB).

FINDINGS OF FACT: (1) Claimant restarted a claim and claimed unemployment insurance benefits for the week ending October 5, 2013 (week 40-13). She made timely continued claims for benefits for the period October 6, 2013 through October 19, 2013 (weeks 41-13 and 42-13).

(2) On approximately October 27, 2013, claimant attempted to claim the week ending October 26, 2013 (week 43-13) through the Department's internet claims system. She received a message stating she had to contact the Department because there was an issue with her claim. Each time claimant tried to claim benefits online from October 26 through January 2014, she received the same message.

(3) On January 13, 2014, claimant's friend contacted a Department representative by telephone for claimant, and connected claimant to the Department representative. Claimant claimed benefits for the period October 20, 2013 to November 30, 2013 (weeks 43-13 through 48-13), the weeks at issue.

(4) Claimant did not routinely file weekly claims for benefits by submitting weekly paper certification forms.

CONCLUSIONS AND REASONS: We agree with the Department and the ALJ and conclude claimant is ineligible for benefits for weeks 43-13 through 48-13 because she did not timely file her claim in accordance with the Department's rules.

ORS 657.155(1)(b) provides that an unemployed individual shall be eligible to receive benefits for any week only if the individual filed a claim for such benefits in accordance with regulations prescribed By Department. ORS 657.260(1). Under those regulations, an individual must file a continued claim no later than seven days following the end of the week for which benefits are claimed for it to be timely. OAR 471-030-0045(4) (September 1, 2013). The individual may file the claims in person at any Employment Department office in Oregon, by mail, by fax, by internet, or by telephone. OAR 471-030-0045(3).

To be timely, claimant had to file her claim for benefits for the week ending October 26, 2013 (week 43-13) by November 2, 2013. To be timely, the week ending November 2, 2013 (week 44-13) had to be filed by November 9, 2013. The week ending November 9, 2013 (week 45-13) had to be filed by November 16, 2013. The week ending November 16, 2013 (week 46-13) had to be filed by November 23, 2013. The week ending November 23, 2013 (week 47-13) had to be filed by November 30, 2013. The week ending November 30, 2013 (week 48-13) had to be filed by December 7, 2013. Claimant did not successfully file claims for the weeks at issue until January 13, 2014. Thus, the claims were not timely. Claimant testified at hearing that she called the Department repeatedly during the weeks at issue, and her telephone calls were disconnected before she was able to speak with a representative. Audio Record ~ 31:53 to 32:50. However, there is no exception to the requirement that an individual file continued claims no later than seven days following the week for which benefits are claimed. Therefore, claimant is not eligible for unemployment insurance benefits for the period October 20, 2013 through November 30, 2013 (weeks 43-13 through 48-13).

DECISION: Hearing Decision 14-UI-12552 is affirmed.

Tony Corcoran and D. E. Larson;
Susan Rossiter, not participating.

DATE of Service: April 7, 2014

NOTE: You may appeal this decision by filing a Petition for Judicial Review with the Oregon Court of Appeals within 30 days of the date of service listed above. *See* ORS 657.282. For forms and information, you may write to the Oregon Court of Appeals, Records Section, 1163 State Street, Salem, Oregon 97310, or visit the website at <http://courts.oregon.gov/OJD/OSCA/acs/records/AppellateCourtForms.page>.

Note: The above link may be broken due to unannounced changes to the Court of Appeals website, in which case you may contact the Appellate Records at (503) 986-5555.