

**EMPLOYMENT APPEALS BOARD DECISION**

**2014-EAB-0838**

*Affirmed*  
*Overpayment and Penalties*

**PROCEDURAL HISTORY:** On March 26, 2014, the Oregon Employment Department (the Department) served notice of an administrative decision assessing a \$2,189 overpayment in regular unemployment insurance benefits (UI), \$656.70 in monetary penalties, and 17 penalty weeks based on unreported work and earnings (decision # 194746). Claimant filed a timely request for hearing. On April 29, 2014, ALJ R. Davis conducted a hearing, and on May 1, 2014 issued Hearing Decision 14-UI-16671, modifying the Department's decision and assessing a \$2,189 UI overpayment, \$328.35 in monetary penalties<sup>1</sup>, and 17 penalty weeks. On May 14, 2014, claimant filed an application for review with the Employment Appeals Board (EAB).

EAB considered claimant's written argument to the extent it was relevant and based on the record.

EAB reviewed the entire hearing record. On *de novo* review and pursuant to ORS 657.275(2), the hearing decision under review is **adopted**.

**DECISION:** Hearing Decision 14-UI-16671 is affirmed.

Tony Corcoran and J. S. Cromwell;  
Susan Rossiter, not participating

**DATE of Service:** June 23, 2014

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<sup>1</sup> The ALJ reduced the monetary penalty from thirty percent to fifteen percent without explanation. On this record, claimant had eleven unrefuted occurrences of willful misrepresentation for either failing to report or for under-reporting weekly hours and wages. Where, as here, claimant had seven or more occurrences within five years, he is liable for a penalty of thirty percent of the total overpayment amount. *See* ORS 657.310(2); OAR 471-030-0052(7). However, claimant has not assigned error to this portion of the decision and has not requested reversal of this portion of the decision. Therefore, Hearing Decision 14-UI-16671 is adopted without modification.

**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 [court.oregon.gov](http://court.oregon.gov). Once on the website, click on the blue tab for “Materials and Resources.” On the next screen, click on the tab that reads “Appellate Case Info.” On the next screen, select “Appellate Court Forms” from the left panel. On the next page, select the forms and instructions for the type of Petition for Judicial Review that you want to file.

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