

EMPLOYMENT APPEALS BOARD DECISION

2014-EAB-1254

Affirmed
Request to Reopen Denied

PROCEDURAL HISTORY: On February 1, 2010, the Oregon Employment Department (the Department) served notice of an administrative decision assessing a \$828 overpayment in regular benefits and Federal Additional Compensation (ARRA). On February 12, 2010, the Department served notice of an administrative decision concluding that claimant was not eligible for a waiver of the ARRA overpayment. Claimant filed a timely hearing request. On June 7, 2010, the Office of Administrative Hearing issued notice of a hearing scheduled for June 23, 2010, at 1:30 p.m. On July 24, 2010, ALJ Bear issued two hearing decisions: Hearing Decision 10-UIB-15987-D dismissed claimant's request for hearing on the overpayment decision for failure to appear, and Hearing Decision 10-UIB-15982-D dismissed claimant request for hearing on the waiver decision for failure to appear. Both hearing decisions became final on July 14, 2010, without a request to reopen or an application for review having been filed.

On July 3, 2014, claimant filed a request to reopen both hearings. ALJ Kangas reviewed claimant's request and on July 21, 2014, issued Hearing Decision 14-UI-21854, denying claimant's request to reopen the hearing on the overpayment, and Hearing Decision 14-UI-21855, denying claimant's request to reopen the hearing on the waiver request. On July 23, 2014, claimant filed an application for review with the Employment Appeals Board (EAB).

Pursuant to OAR 471-041-0095 (October 29, 2006), EAB consolidated its review of Hearing Decisions 14-UI-21854 and 14-UI-21855. For case-tracking purposes, this decision is being issued in duplicate (EAB Decisions 2014-EAB 1253 and 2014-EAB-1254).

In his application for review, claimant asserted that he is requesting a new hearing because he has evidence for the "2010 claim" showing that he complied with the overpayment guidelines. Claimant's request is construed as a request to present new information under OAR 471-041-0090 (October 29, 2006), which allows EAB to consider new information if the party offering the information shows it was prevented by circumstances beyond its reasonable control from presenting the information at hearing.

Claimant offers no explanation as to why he failed to appear for the 2010 hearing or why he failed to file a timely motion to reopen his hearing. Accordingly, he has not demonstrated that circumstances beyond his reasonable control prevented him from offering the information he now wants EAB to consider at hearing. Claimant's request to present new information is, therefore, denied.

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

DECISION: Hearing Decisions 14-UI-21854 and 14-UI-21855 are affirmed.

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

DATE of Service: July 31, 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 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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