

EMPLOYMENT APPEALS BOARD DECISION

2014-EAB-1359

Affirmed
Ineligible
Overpayment

PROCEDURAL HISTORY: On May 1, 2014, the Oregon Employment Department (the Department) served notice of an administrative decision (decision # 72259) concluding claimant was not available for work from March 30, 2014 to April 5, 2014 (week 14-14). On May 21, 2014, decision # 72259 became final without a request for hearing having been filed. On June 23, 2014, the Department served notice of an administrative decision (decision # 145605) assessing a \$126 overpayment based on decision # 72259. Claimant filed a request for hearing. On July 16, 2014, the Office of Administrative Hearings (OAH) issued two notices of two hearings scheduled for July 31, 2014; one at 8:15 a.m., and one at 9:30 a.m. On July 31, 2014, ALJ R. Davis conducted a hearing, and issued Hearing Decisions 14-UI-22608, allowing claimant's late request for hearing, but affirming decision # 72259, and 14-UI-22611, affirming decision # 145605.

Pursuant to OAR 471-041-0095 (October 29, 2006), EAB consolidated its review of Hearing Decisions 14-UI-22608 and 14-UI-22611. For case-tracking purposes, this decision is being issued in duplicate (EAB Decisions 2014-EAB-1358 and 2014-EAB-1359).

In claimant's written argument, she included information that was not part of the hearing record. Under OAR 471-041-0090 (October 29, 2006), EAB may consider information not included in the hearing record if the party offering the information shows that circumstances beyond the party's reasonable control prevented the party from presenting the information at hearing. Claimant provided no explanation as to why the information in the written argument was not presented at hearing. In addition, claimant failed to certify that a copy of the written argument was provided to the other parties as required by OAR 471-041-0080(2)(a). Accordingly, we did not consider the claimant's written argument in reaching this decision.

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-22608 and 14-UI-22611 are affirmed.

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

DATE of Service: August 19, 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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