

## EMPLOYMENT APPEALS BOARD DECISION

2015-EAB-0091

*Reversed*  
*Eligible*

**PROCEDURAL HISTORY:** On December 17, 2014, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant failed to file his claim in accordance with Department regulations (decision # 143012). Claimant filed a timely request for hearing. On January 20, 2014, ALJ Murdock conducted a hearing, and on January 21, 2014, issued Hearing Decision 15-UI-32147, affirming the administrative decision. On February 3, 2015, claimant filed an application for review with the Employment Appeals Board (EAB).

With his application for review, claimant submitted information that was not part of the hearing record, and failed to show that factors or circumstances beyond claimant's reasonable control prevented claimant from offering the information during the hearing. Under ORS 657.275(2) and OAR 471-041-0090 (October 29, 2006), we considered only information received into evidence at the hearing when reaching this decision.

**FINDINGS OF FACT:** (1) On November 19, 2014, claimant filed a claim for unemployment benefits. Claimant claimed and was denied benefits for the period from November 16, 2014 through January 10, 2015 (weeks 47-14 through 01-15).

(2) Claimant is a citizen of the Federated States of Micronesia. Under the terms of the Compact of Free Association with the Federated States of Micronesia (as amended in 2004), he is eligible to work in the United States as a nonimmigrant for an unlimited length of time, and is also eligible to receive a social security card with no restrictions, i.e., a social security card that does not specify it is valid for work only with authorization from the United States Department of Homeland Security.

(3) By letter dated November 25, 2014, a Department representative asked that claimant provide the Department with a "readable *enlarged copy of both sides of your authorization to work document.*" (Exhibit 1).

(4) Claimant sent the Department a copy of his social security card and an identification card, which the Department received on December 8, 2014.

(5) Also on December 8, 2014, a Department representative left a message for claimant, asking that he provide additional information regarding his eligibility to work in the United States. The Department wanted claimant to provide it with a copy of his I-94, a document issued to non-United States citizens when they enter this country. Claimant never responded to the message left by the Department representative and did not provide the Department with any additional documents.

**CONCLUSION AND REASONS:** We disagree with the ALJ and conclude that claimant filed his claim in accordance with Department regulations.

ORS 657.260(1) provides that claims for unemployment benefits must be filed in accordance “with such regulations as the Director of the Employment Department may prescribe.” OAR 471-030-0025 (December 16, 1985) requires that individuals claiming benefits must furnish the Department with the information necessary to process their claims, including “licenses or permits held.” The Department required that claimant provide it with proof of his authorization to work lawfully in the United States, and denied him benefits because it believed he failed to do so. We disagree.

Under 8 USC § 1324(b)(1), a social security card (other than a card specifying it does not authorize employment in the United States) and an identification document issued by a State are sufficient to prove that an individual is authorized to work lawfully in the United States. By submitting these documents to the Department, claimant provided it with sufficient proof of his eligibility to work in the United States and complied with Department’s requirements.<sup>1</sup>

Because claimant complied with the Department’s requirements, he is eligible to receive unemployment benefits for the period from November 16, 2014 through January 10, 2015 (weeks 47-14 through 01-15).

**DECISION:** Hearing Decision 15-UI-32147 is set aside, as outlined above.

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

**DATE of Service:** February 12, 2015

**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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<sup>1</sup> We note that under 8 USC § 132b, an employer or other entity may not require that an individual present a particular form of documentation to demonstrate eligibility to work in the United States; doing so may violate the anti-discrimination provisions of the Immigration and Nationality Act.

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