

EMPLOYMENT APPEALS BOARD DECISION
2015-EAB-0351

Affirmed
Late Request for Hearing Dismissed
Overpayment, No Penalties

Decisión Affirmada
Petición Tardía para una Audiencia Negada
Sobrepago, no Sanciones

PROCEDURAL HISTORY: On December 18, 2014, the Oregon Employment Department (the Department) served notice of an administrative decision (decision # 143935) concluding claimant was not actively seeking work for the period of September 28, 2014 through November 22, 2014 (weeks 40-14 through 47-14). On January 7, 2015, decision # 143935 became final without a request for hearing having been filed. On January 21, 2015, the Department served notice of an administrative decision (decision # 112816) assessing a \$1,505 overpayment based on decision # 143935.¹ On January 30, 2015, claimant filed a late request for hearing on decision # 143935 and a timely request for hearing on decision # 112816.

On March 12, 2015, ALJ M. Davis conducted a consolidated hearing and on March 13, 2015 issued two Hearing Decisions; Hearing Decision 15-UI-35072, dismissing claimant's late request for hearing on decision # 143935, and Hearing Decision 15-UI-35073, affirming the overpayment decision # 112816. On March 30, 2015, claimant filed applications for review with the Employment Appeals Board (EAB).

¹ Administrative decision # 143935 found claimant ineligible for the period of September 28, 2014 through November 22, 2014 (weeks 40-14 through 47-14). However, the administrative overpayment decision # 112816 found claimant was only overpaid for the period of September 28, 2014 through November 15, 2014 (weeks 40-14 through 46-14). Although the Department representative provided no explanation in the hearing or elsewhere in the record for the discrepancy, Department records show that the Department did not pay claimant benefits for week 47-14, so that week was not included in the overpayment decision. We take notice of claimant's payment status for week 47-14, which is contained in Employment Department records. Any party that objects to our doing so must submit such objection to this office in writing, setting forth the basis of the objection in writing, within ten days of our mailing this decision. OAR 471-041-0090(3) (October 29, 2006). Unless such objection is received and sustained, the noticed fact will remain in the record.

Pursuant to OAR 471-041-0095 (October 29, 2006), EAB consolidated its review of Hearing Decisions 15-UI-35072 and 15-UI-35073. For case-tracking purposes, this decision is being issued in duplicate (EAB Decisions 2015-EAB-0351 and 2015-EAB-0352).

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 Decisions 15-UI-35072 and 15-UI-35073 are affirmed. *Decisiones de la Audiencia 15-UI-35072 y 15-UI-35073 queda confirmada.*

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

DATE of Service: April 2, 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 Court of Appeals website at courts.oregon.gov. Once on the website, use the 'search' function to search for 'petition for judicial review employment appeals board'. A link to the forms and information will be among the search results.

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NOTA: Usted puede apelar esta decisión presentando una solicitud de revisión judicial ante la Corte de Apelaciones de Oregon (Oregon Court of Appeals) dentro de los 30 días siguientes a la fecha de notificación indicada arriba. Ver ORS 657.282. Para obtener formularios e información, puede escribir a la Corte de Apelaciones de Oregon, Sección de Registros (Oregon Court of Appeals/Records Section), 1163 State Street, Salem, Oregon 97310 o visite el sitio web en courts.oregon.gov. En este sitio web, hay información disponible en español.

Por favor, ayúdenos mejorar nuestros servicios por llenar el formulario de encuesta sobre nuestro servicio de atención al cliente. Para llenar este formulario, puede visitar <https://www.surveymonkey.com/s/5WQXNJH>. Si no puede llenar el formulario sobre el internet, puede comunicarse con nuestra oficina para una copia impresa de la encuesta.