

**EMPLOYMENT APPEALS BOARD DECISION**  
**2015-EAB-0719-R**

*Hearing Decision 15-UI-39079 Affirmed on Reconsideration  
Overpayment Assessed*

**PROCEDURAL HISTORY:** On November 20, 2014, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant quit working for Advantage Sales and Marketing without good cause on September 30, 2014 (decision # 73014). Claimant filed a timely request for hearing. On January 9, 2015, ALJ M. Davis conducted a hearing, and on January 12, 2015, issued Hearing Decision 15-UI-31648, concluding that claimant quit working for Advantage Sales and Marketing without good cause on October 19, 2014. On January 20, 2015, claimant filed an application for review with the Employment Appeals Board (EAB). On March 10, 2014, EAB issued Appeals Board Decision 2015-EAB-0048, affirming Hearing Decision 15-UI-31648. On April 9, 2015, Appeals Board Decision 2015-EAB-0048 became final without a petition for judicial review having been filed with the Oregon Court of Appeals.

On April 14, 2015, the Department served notice of an administrative decision based on Appeals Board Decision 2015-EAB-0048, concluding claimant was overpaid \$1,614 in benefits (decision # 123822). Claimant filed a timely request for hearing. On May 19, 2015, ALJ R. Davis conducted a hearing, and on May 27, 2015 issued Hearing Decision 15-UI-39079, affirming the Department's decision. On June 11, 2015, claimant filed an application for review with the Employment Appeals Board (EAB). On June 18, 2015, EAB issued Appeals Board Decision 2015-EAB-0719, affirming Hearing Decision 15-UI-39079. On June 24, 2015, claimant filed a request for reconsideration with EAB. This decision is issued pursuant to EAB's authority under ORS 657.290(3).

**FINDING OF FACT:** When claiming benefits for the week of October 19 through 25, 2014 (week 43-14), claimant reported to the Department that he had not quit a job, or been fired or suspended from a job, that week. The Department therefore paid claimant a total of \$1,614 in benefits for week 43-14 and the weeks from October 26 through November 8, 2014 (weeks 44-14 and 45-14).

**CONCLUSIONS AND REASONS:** Claimant was overpaid \$1,614 in benefits that he must either repay or have deducted from any future benefits payable.

ORS 657.310(1) provides that an individual who received benefits to which the individual was not entitled is liable to either repay the benefits or have the amount of the benefits deducted from any future benefits otherwise payable to the individual under ORS chapter 657. That provision applies if the benefits were received because the individual made or caused to be made a false statement or misrepresentation of a material fact, or failed to disclose a material fact, regardless of the individual's knowledge or intent. *Id.*

Claimant received \$1,614 in benefits for weeks 43-14 through 45-14 because he represented to the Department that he had not quit a job, or been fired or suspended from a job, during week 43-14. However, Appeals Board Decision 2015-EAB-0048 concluded that claimant quit working for Advantage Sales and Marketing without good cause during week 43-14. Appeals Board Decision 2015-EAB-0048 became final without a petition for judicial review having been filed with the Oregon Court of Appeals. Claimant's representation that he did not quit a job during week 43-14 therefore was false as a matter of law. Claimant therefore received \$1,614 in benefits to which he was not entitled because he misrepresented a material fact. Regardless of claimant's knowledge or intent, he is liable to repay the \$1,614 or have that amount deducted from any future benefits otherwise payable to him under ORS chapter 657.

**DECISION:** On reconsideration, Hearing Decision 15-UI-39079 is affirmed.

J. S. Cromwell and D. P. Hettle, *pro tempore*;  
Susan Rossiter, not participating.

**DATE of Service: July 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](http://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.

**Please help us improve our service by completing an online customer service survey.** To complete the survey, please go to <https://www.surveymonkey.com/s/5WQXNJH>. If you are unable to complete the survey online and wish to have a paper copy of the survey, please contact our office.