

EMPLOYMENT APPEALS BOARD DECISION
2017-EAB-0024

Reversed & Remanded
Revocada & Remitada

PROCEDURAL HISTORY: On December 14, 2016, the Oregon Employment Department (the Department) served notice of administrative decision # 83412. Claimant filed a timely request for hearing. On December 28, 2016, ALJ Kangas issued Hearing Decision 16-UI-73749, dismissing claimant's request for hearing. On January 3, 2016, claimant filed an application for review with the Employment Appeals Board (EAB).

CONCLUSIONS AND REASONS: Hearing Decision 16-UI-73749 must be reversed, and this matter remanded for a hearing on decision # 83412.

The ALJ dismissed claimant's request for hearing on the basis that decision # 83412 allowed her benefits, and a hearing "would not have any practical effect on claimant's rights or interests because the administrative decision ruled in claimant's favor." Hearing Decision 16-UI-73749 at 2. We disagree.

Although decision # 83412 said that claimant was "allowed" benefits, the "findings" on that decision indicated otherwise, stating, "To be eligible for benefits you must be available . . . Monday to Saturday from 6AM to 6PM. You are only available from 8AM to 2:30PM, because you lack childcare . . ." A cursory review of department records confirms that decision # 83412 was issued as a "denial" of benefits.¹ Despite the typo on decision # 83412, it is apparent that decision # 83412 *denied* claimant benefits and a hearing *would* have a practical effect on claimant's rights and interests. She is, therefore, entitled to a hearing on the merits of decision # 83412, and this matter is reversed and remanded with instructions to schedule such a hearing.

¹ We take notice of Department records, specifically, the Department's December 14, 2016 and December 23, 2016 claim comments, both of which refer to the decision at issue in this case as a "denial." 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.

DECISION: Hearing Decision 16-UI-73749 is set aside, and this matter remanded for further proceedings consistent with this order. *Decisión de la Audiencia 16-UI-73749 se pone a un lado, y esta materia se remite para otros procedimientos constantes con esta orden.*

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

DATE of Service: January 17, 2017

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.*