

EMPLOYMENT APPEALS BOARD DECISION
2017-EAB-0175

Affirmed
Ineligible Weeks 37-16 through 43-16

PROCEDURAL HISTORY: On October 11, 2016, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant did not file her claim in accordance with the Department's regulations and was ineligible to receive benefits during the period of September 11, 2016 through September 17, 2016. Claimant filed a timely request for hearing. On January 8, 2017, ALJ Wiperman conducted a hearing, and on January 27, 2017 issued Hearing Decision 17-UI0-75646, affirming the Department's decision and concluding claimant was not eligible to receive benefits during the period September 11, 2016 through October 29, 2016. On February 9, 2017, claimant filed an application for review with the Employment Appeals Board (EAB).

Claimant submitted a written argument that contained new information that was not offered during the hearing. Claimant did not explain why she was unable to present this new information at the hearing or otherwise show that she was prevented from doing so by factors or circumstances beyond her reasonable control as required by OAR 471-041-0090 (October 29, 2006). For that reason, EAB did not consider the new information that claimant sought to offer by way of her written argument. EAB considered only evidence in the hearing record when reaching his decision.

FINDINGS OF FACT: (1) On August 23, 2016, claimant filed an initial claim for unemployment benefits. That claim was determined valid. Claimant claimed but was not paid benefits for the weeks of September 11, 2016 through October 29, 2016 (weeks 37-16 through 43-16), the weeks at issue.

(2) When claimant filed her claim for benefits, she lived in Kent, Oregon. On August 29, 2016, the Department mailed a letter to claimant's address of record notifying her that she was required to attend the Department's "welcome process" by participating in an interview at the WorkSource Oregon office in The Dalles, Oregon, which was the closest office to claimant's residence. The letter notified claimant if she did not complete the "welcome process" by September 13, 2016 she would not continue to receive benefits. The Dalles was located over 60 miles away from Kent and claimant did not have a functioning vehicle that would have allowed her to travel to The Dalles. Claimant understood she was required to

contact the WorkSource office in The Dalles to complete the “welcome process,” but did not think she would not receive benefits until she completed the process.

(3) Sometime in September 2016, claimant’s partner died. Claimant was not able to continue living in the apartment that she had her partner had shared in Kent because she could not afford the rent. Claimant arranged to stay with a couple of friends, neither of whom lived in Kent. After claimant gave up her apartment, she was able to travel to Kent to check her post office box only every few weeks when she could arrange a ride with a friend. One of the friends with whom claimant stayed lived outside of Shaniko, Oregon, which was an hour and 20 minute commute to The Dalles and approximately an hour commute to Madras, Oregon where there also was a WorkSource Center.

(4) During the weeks at issue before October 26, 2016, claimant called the WorkSource office in The Dalles to inquire whether she could complete the “welcome process” by phone. A WorkSource representative with whom claimant spoke told claimant she thought that completing the process by phone was possible, but that she wanted to check with her supervisor and would call claimant back. That representative did not call claimant back. Sometime shortly before October 26, 2016, claimant checked her post office box in Kent and found that the Department had sent several letters to her stating that was not receiving benefits for weeks she had been claiming because she had not yet completed the “welcome process.” On October 26, 2016, claimant again called the WorkSource office in The Dallas about completing the “welcome” process by phone, and the representative with whom she spoke this time told her that she could not complete that process by phone, but that claimant could call the Department’s central office to attempt to obtain permission to do so. That same day, claimant called the Department’s central office and was told she needed to complete the welcome process in person at the WorkSource office in The Dalles.

(5) During the weeks at issue, claimant did not report to the WorkSource office in The Dalles to attend the “welcome process” in person because she was living some distance away from The Dalles, she did not have a functioning car and none of her friends were going to The Dalles.

CONCLUSIONS AND REASONS: Claimant did not file her claim for unemployment benefits in accordance with the Department’s rules and is not eligible to receive benefits for the weeks of September 11, 2017 through October 29, 2016.

ORS 657.155(1)(a) provides that an individual is eligible to receive benefits in any week only if the individual has registered for work and reported at an unemployment office in accordance with such rules as the director may prescribe. OAR 471-030-0035(1) (December 25, 2005) states that an individual is considered “registered for work” for purposes of ORS 657.155(1)(a) by completing such processes as the director directs in order to create a full registration for work. While ORS 657.155(1)(a) authorizes the director under certain circumstances to waive or alter the registration requirements if the director finds that compliance with such requirements would be oppressive or inconsistent with the purposes of the unemployment insurance statutes, the Department has not adopted rules to implement such waivers or alterations.

By its letter to claimant dated August 29, 2016, the Department, acting on behalf of the director, directed claimant to appear at the local WorkSource office in The Dalles to complete the “welcome process” as part of the process for registering for work. While the particular circumstances that made it difficult for

claimant to attend in person the “welcome process” at the WorkSource office in The Dalles were not of her own doing, EAB has no authority to create an exemption to or waiver of the Department’s registration requirements for claimant when the Department and legislature have not chosen to do so. However compelling those reasons might be, claimant did not satisfy the Department’ requirements to “register for work,” as set out in OAR 471-030-0035(1) and, as such, was not eligible to receive benefits under ORS 657.155(1)(a) during the weeks at issue.

DECISION: Hearing Decision 17-UI-75646 is affirmed.

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

DATE of Service: March 6, 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.

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.