

EMPLOYMENT APPEALS BOARD DECISION
2017-EAB-0465

Affirmed
Request to Reopen Denied

PROCEDURAL HISTORY: On October 25, 2017, the Oregon Employment Department (the Department) served notice of an administrative decision (decision # 195070) assessing a \$1,535 overpayment, 15 penalty weeks and a \$230.25 monetary penalty. Claimant filed a timely request for hearing. On January 27, 2017, the Office of Administrative Hearings issued notice of a hearing scheduled for February 10, 2017. On February 13, 2017, ALJ Monroe issued Hearing Decision 17-UI-76779, dismissing claimant's hearing request for failure to appear at the February 10 hearing. On March 6, 2017, Hearing Decision 17-UI-76779 became final, without an application for review or request to reopen having been filed. On March 21, 2017, claimant filed an untimely request to reopen. On April 4, 2017, ALJ Kangas issued Hearing Decision 17-UI-80238, denying claimant's request to reopen as untimely. On April 24, 2017, claimant filed an application for review with the Employment Appeals Board (EAB).

Claimant failed to certify that he provided a copy of his argument to the other parties as required by OAR 471-041-0080(2)(a) (October 29, 2006). Even if we had considered the argument, it would not have changed the outcome of this decision. In his argument, claimant presented new information that was not part of the record: he explained that his wife "was in the hospital at the time of the last hearing." OAR 471-041-0090(2) allows EAB to consider new information if, among other things, the information is material and relevant to EAB's determination. Information about why claimant missed the February 13 hearing is not relevant or material to the issue presented here: whether claimant had good cause for submitting an untimely request to reopen under OAR 471-040-0041 (February 10, 2012).

EAB reviewed the entire record in this case. On *de novo* review and pursuant to ORS 657.275(2), the hearing decision under review is **adopted**.

DECISION: Hearing Decision 17-UI-80238 is affirmed.

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

DATE of Service: April 26, 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.