

**EMPLOYMENT APPEALS BOARD DECISION**  
**2017-EAB-0482**

*Affirmed*  
*Ineligible*

**PROCEDURAL HISTORY:** On January 10, 2017, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant did not file her claim for benefits for the week of December 4 through December 10, 2016 in accordance with the Department's rules (decision # 154531). Claimant filed a timely request for hearing. On February 22, 2017, ALJ S. Lee convened a hearing at which claimant did not appear, and issued Hearing Decision 17-UI-77439, dismissing claimant's request for hearing due to her failure to appear for the hearing. On March 8, 2017, claimant filed a request to reopen. On April 4, 2017, ALJ S. Lee conducted a hearing, and on April 7, 2017 issued Hearing Decision 17-UI-80591, allowing claimant's request to reopen and affirming decision # 15431. On April 27, 2017, claimant filed an application for review with the Employment Appeals Board (EAB).

EAB considered claimant's written argument when reaching this decision.

Based on a *de novo* review of the entire record in this case, and pursuant to ORS 657.275(2), the ALJ's findings and analysis with respect to the conclusion allowing claimant's request to reopen the hearing are **adopted**.

**FINDINGS OF FACT:** (1) On October 3, 2016, claimant filed an initial claim for benefits. That claim was determined valid with a weekly benefit amount of \$590. Claimant claimed and was paid benefits for the weeks of October 2, 2016 through December 3, 2016 (weeks 40-16 through 48-16).<sup>1</sup> Claimant attempted to claim benefits for the week of December 4, 2016 through December 10, 2016 (week 49-16) but was not paid benefits for that week. Week 49-19 is the week at issue.

<sup>1</sup> We take notice of this fact, 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, 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 at EAB.

(2) On December 12, 2017, claimant accessed the Department's online claim system to timely file her claim for week 49-16. When claimant accessed the system on December 12, 2016, it "timed out" before she was able to complete the submission of the weekly claim because she had the same screen open for more than ten minutes. Audio at ~22:49. As result, the system did not recognize claimant's weekly claim as having been completely submitted. Despite the system having "timed out," it still allowed claimant to enter all of the information needed to submit a complete claim for week 49-16 and claimant was not aware that the system had not recognized her claim as having been completely filed. Claimant had until December 17, 2016 to timely file her claim for week 49-16. Because she was not aware that the claim she filed on December 12, 2016 had not been completely submitted, claimant did not attempt to file another claim for week 49-16 after her initial attempt to do so. The Department did not pay benefits to claimant for week 49-16.

(3) Sometime around December 30, 2016, claimant noticed she had not received a benefit payment for week 49-16. On December 30, 2016, claimant called the Department about the missing benefit payment. A Department representative explained to claimant that the system had "timed out" during her attempt to file her claim for week 49-16 and did not recognize that her claim had been submitted. The representative also informed claimant that December 30, 2017 was past the time when she could file a claim for week 49-16.

**CONCLUSIONS AND REASONS:** Claimant did not file her claim for benefit week 49-16 in accordance with the Department's regulations. Accordingly, claimant is not eligible to receive benefits for that week.

ORS 657.260(1) provides that claims for benefits shall be filed in accordance with the Department's regulations. With few exceptions, not of which apply here, OAR 471-030-0045(4) (February 23, 2014) states, among other things, that a continued claim must be filed no later than seven days following the end of the week for which benefits are claimed. The date a claim is considered filed, when done via the internet, is "the initial date of transmission of the on line continued claim." OAR 471-030-0045(3)(d).

Here, the time by which could timely file a claim for benefits for week 49-16 was no later than seven days after the end of week 49-16, or December 17, 2016. While claimant did attempt to file her claim for week 49-16 on December 12, 2016, which was within the allowable time period, claimant's claim was not "transmitted" during that attempt since the system "timed out" before the filing of the claim was completed. OAR 471-030-0045(4) does not set forth any exceptions that will allow EAB to extend the time for claimant's filing of the continued claim beyond the seven days allowed or by December 17, 2016, even if claimant attempted in good faith to file before December 17, 2016, was unable to do so through no fault of her own or can otherwise show that good cause existed for her failure to file by December 17, 2016. As such, since EAB does not have the authority to recognize exceptions to the strict operation of OAR 471-030-0045(4), claimant is ineligible to receive benefits for week 49-16 because she did not timely file her claim for benefits for that week.

**DECISION:** Hearing Decision 17-UI-80591 is affirmed.

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

**DATE of Service: May 24, 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](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.

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