

EMPLOYMENT APPEALS BOARD DECISION
2017-EAB-1289

Modified
Weeks 27-17 Through 29-17 – Ineligible
Week 30-17 - Eligible

PROCEDURAL HISTORY: On July 21, 2017, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant was not eligible to receive benefits from July 2 through July 8, 2017 because he failed to attend a Reemployment and Eligibility Reassessment (REA) appointment as directed. Claimant filed a timely request for hearing. On October 11, 2017, ALJ Frank conducted a hearing, and on October 19, 2017 issued Hearing Decision 17-UI-94938, modifying the Department's decision and concluding claimant was not eligible for benefits from July 2 through July 29, 2017. On November 7, 2017, claimant filed an application for review with the Employment Appeals Board (EAB).

Claimant submitted written argument to EAB. Claimant's argument contained information that was not part of the hearing record, and failed to show that factors or circumstances beyond claimant's reasonable control prevented claimant from offering the information during the hearing. Under ORS 657.275(2) and OAR 471-041-0090 (October 29, 2006), we considered only information received into evidence at the hearing when reaching this decision, and claimant's argument to the extent it was based on the hearing record.

FINDINGS OF FACT: (1) Claimant filed an initial claim for unemployment insurance benefits on May 19, 2017. Claimant filed claims for benefits for the weeks of July 2, 2017 through July 29, 2017 (weeks 28-17 through 30-17), the weeks at issue. The Department did not pay claimant benefits for those weeks.

(2) On June 2, 2017, claimant completed an REA welcome visit with the Department. On June 27, 2017, the Department sent claimant a letter stating that it had selected him to attend a REA2 interview at his local WorkSource office no later than July 7, 2017 to remain eligible for benefits. Claimant received the notice.

(3) Claimant was dissatisfied that he should have to attend a second REA appointment in such a short period of time. Claimant preferred to spend time looking for work.

(4) On July 24, 2017, claimant completed the REA2 appointment.

CONCLUSIONS AND REASONS: Claimant is ineligible for benefits for the weeks from July 2, 2017 through July 22, 2017 because he failed to complete a required REA2 process during those weeks. Claimant is eligible for benefits for the week of July 23, 2017 through July 29, 2017 because he completed the REA2 process during that week.

An unemployed individual is eligible for benefits if, among other requirements, the individual has “registered for work at and thereafter has continued to report at an employment office in accordance with such rules as the director may prescribe.” ORS 657.155(1)(a). To satisfy this requirement, when requested by the Department, an individual must submit information to an authorized representative about the individual’s job qualifications, skills, training and experience when the information is deemed necessary to carry out job placement services. OAR 471-030-0035(2) (December 25, 2005). As part of this process, the Department may require individuals to complete an REA interview to assist the Department in assessing a claimant’s work history, job skills and related employment information. However, that requirement may be waived or altered when compliance with the requirement “would be oppressive.” ORS 657.155(1)(a).

Claimant received the June 27, 2017 notice from the Department instructing him to attend a second REA before July 7, and the record fails to show the instruction was an oppressive requirement for claimant. We agree that claimant’s failure to attend the REA2 until July 24, 2017 rendered him ineligible to receive benefits from July 2 through July 22, 2017 (weeks 27-17 through 29-17). However, because claimant completed the REA2 during week 30-17, and because the record does not show that the Department advised claimant that he would be denied benefits for the week during which he completed the REA2, we conclude that claimant is eligible for benefits during week 30-17.

Claimant is ineligible for benefits for the weeks from July 2, 2017 through July 22, 2017 (weeks 27-17 through 29-17). Claimant is eligible for benefits for the week of July 23, 2017 through July 29, 2017 (week 30-17).

DECISION: Hearing Decision 17-UI-94938 is modified, as outlined above.

J. S. Cromwell and D. P. Hettle.

DATE of Service: December 5, 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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