

EMPLOYMENT APPEALS BOARD DECISION
2018-EAB-0415

Ineligible – Weeks 04-18 through 13-18
Overpayment and Penalties Assessed

PROCEDURAL HISTORY: On March 6, 2018, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant was not available for work during the weeks from January 21 through March 3, 2018 (weeks 04-18 through 09-18) (decision # 93322). On March 7, 2018, the Department served notice of an administrative decision, based on decision # 93322, assessing a \$1,149 overpayment, a \$344.70 monetary penalty and 14 penalty weeks (decision # 194952). Claimant filed a timely request for hearing on each decision.

On April 5, 2018, ALJ Monroe conducted hearings, and on April 11, 2018, issued Order No, 18-UI-107163 concluding that claimant was not available for work during the weeks from January 21 through March 31, 2018 (weeks 04-18 through 13-18), and on April 23, 2018 issued Amended Final Order No. 18-UI-107925 affirmed decision # 194952. On April 23, 2018, claimant filed applications for review of Order Nos. 18-UI-107163 and 18-UI-107925 with the Employment Appeals Board (EAB).

Pursuant to OAR 471-041-0095 (October 29, 2006), EAB consolidated its review of Order Nos. 18-UI-107163 and 18-UI-107925. For case-tracking purposes, this decision is being issued in duplicate (EAB Decisions 2018-EAB-0416 and 2018-EAB-0415, respectively).

EAB reviewed the entire hearing record in these cases, including claimant’s written argument.¹ On *de novo* review and pursuant to ORS 657.275(2), Order Nos. 18-UI-107163 and 18-UI-107925 are **adopted**.

¹ In written argument, claimant objected to the overpayment decision after denying that she ever received \$1,149 in benefits from the Department for weeks 04-18 through 06-18. Written argument at 1. However, during the hearing on the overpayment issues, the Department’s witness asserted that claimant had an overpayment amount in the system based on a previous decision not connected with the case at hand. Transcript (April 5, 2018, 3:30 hearing) at 8-9. Perhaps the \$1,149 in benefits claimant reportedly received was in fact applied as a credit against an outstanding overpayment amount rather than sent to claimant as an actual benefit disbursement. EAB cannot answer that question. However, that is a question that probably could and should be addressed to a Department representative at a phone number posted on the Oregon Employment Department website at <http://www.oregon.gov/employ/Pages/Contact-Us.aspx> for such issues, as follows:

DECISION: Order Nos. 18-UI-107163 and 18-UI-107925 are affirmed.

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

DATE of Service: May 24, 2018

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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