

EMPLOYMENT APPEALS BOARD DECISION
2018-EAB-0727

Reversed
Ineligible Week 18-18

PROCEDURAL HISTORY: On May 9, 2018, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant did not file a claim in accordance with the Department's regulations and therefore was not eligible to receive benefits from April 29, 2018 through May 5, 2018 and until he provided certain requested information. Claimant filed a timely request for hearing. On June 25, 2018, ALJ Snyder conducted a hearing, and on July 3, 2018 issued Order No. 18-UI-112518, reversing the Department's decision. On July 20, 2018, the Department filed an application for review with the Employment Appeals Board (EAB).

EAB considered the Department's written argument when reaching this decision.

FINDINGS OF FACT: (1) On August 22, 2017, claimant filed an initial claim for unemployment insurance benefits. Thereafter, claimant claimed benefits. When making weekly claims for benefits, claimant regularly reported hours worked and wages earned from Roseburg Carpet Cleaning, LLC.

(2) For the week of April 8 through 14, 2018 (week 15-18), claimant claimed benefits and reported earnings from Roseburg Carpet Claimant. On April 24, 2018, claimant claimed benefits for the week of April 15 through 21, 2018 (week 16-18), but reported no hours worked or earnings since he did not work during that week.

(3) On April 25, 2018, one day after claimant claimed benefits for week 16-18, the Department mailed him a letter asking him to complete and return an enclosed questionnaire explaining why he had reported no hours worked or earnings for that week. The letter stated that if claimant did not return the completed questionnaire or contact an unemployment insurance center within five days of the date of the letter, by April 30, 2018, benefits would be denied. Claimant did not receive the April 25, 2018 letter from the Department because, although it was delivered to his address, it became mixed up with his housemate's mail.

(4) Claimant did not return the completed questionnaire or contact an unemployment insurance center by April 30, 2018. As a result, the Department denied claimant's claim for benefits for the week of April 29 through May 5, 2018 (week 18-18).

(5) On May 14, 2018, after receiving the administrative decision denying him benefits, claimant contacted an unemployment insurance center and provided an explanation for why he had reported no hours worked or earnings for week 16-18. Although claimant ultimately provided the information that the Department had requested, the Department's policy was not to reverse issued administrative decisions denying benefits based on a failure to provide information, but to end the denial as of the week prior to the week in which the information was received. The Department therefore ended claimant's denial effective the week of May 6 through 12, 2018 (week 19-18).

CONCLUSIONS AND REASONS: By not providing the information sought by the Department's April 25, 2018 letter by April 30, 2018, claimant did not file a claim in accordance with the Department's regulations and was not eligible to receive benefits for week 18-18.

ORS 657.260(1) provides that claims for benefits shall be filed in accordance with the Department's regulations, and ORS 657.260(4) provides that every person making a claim shall certify that during the week for which benefits are claimed the individual has not earned or received compensation for any employment other than as specified in the claim. OAR 471-030-0025(1) (January 11, 2018) provides that a person who has claimed benefits must furnish to the Department all information required for processing their claim including, among things, information with respect to work activity during the week claimed or any other factors material to a determination of eligibility for benefits. A person is required to furnish information required for the processing of their claim within the time frame provided by an authorized representative of the Department, and unless a different time is specified, within five calendar days of the date of a letter requesting that information. OAR 471-030-0025(2)(a).

In Order No. 18-UI-112518, the ALJ found as fact that claimant did not furnish the requested information explaining why he failed to report earnings for week 16-18 within the five days specified in the Department's April 25, 2018 letter, and only furnished that information on May 14, 2018. Order No. 18-UI-112518 at 1-2. Despite claimant's failure to furnish the required information within the specified time frame, the ALJ concluded claimant was eligible to receive benefits for week 18-18 because "[c]laimant ultimately provided the [requested] information on May 14, 2018," albeit late. Order No. 18-UI-112518 at 2. We disagree.

At hearing, the parties agreed that claimant did not furnish the requested information to the Department until May 14, 2018, two weeks after the Department's April 30, 2018 deadline. The Department's witness testified at hearing that the Department's policy is no longer to reverse administrative decisions issued when a claimant fails to furnish requested information within the specified time frame. Audio at ~10:08. ORS 657.260, OAR 471-030-0025 and other statutes and regulations pertaining to a claimant's failure to provide requested information do not require the Department to excuse a claimant's failure to timely furnish that information on any ground, including that it ultimately was furnished and that the information, when furnished, did not render claimant ineligible to receive benefits. For this reason, EAB defers to the Department's policy and its interpretation of its own rules. The first week that claimant is eligible for benefits by virtue of having belatedly furnished the requested information, pursuant to the

Department's policy, is the week 19-18, the week prior to the week in which claimant furnished the information. Accordingly, claimant is not eligible to receive benefits for week 18-18.

Claimant did not file a claim in accordance with the Department's regulations and is not eligible to receive benefits for week 18-18.

DECISION: Order No. 18-UI-112518 is set aside, as outlined above.

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

DATE of Service: August 22, 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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