

**EMPLOYMENT APPEALS BOARD DECISION**  
**2019-EAB-1128**

*Modified*  
*Late Request for Hearing Allowed*  
*Ineligible Week 32-19*  
*Eligible Weeks 33-19 through 39-19*

**PROCEDURAL HISTORY:** On August 29, 2019, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant was not eligible for unemployment compensation benefits from August 4 through August 10, 2019 because she did not complete her registration requirements in accordance with Department rules. On September 18, 2019, the Department's decision became final without claimant having filed a request for hearing. On October 3, 2019, claimant filed a late request for hearing. On October 8, 2019, ALJ Kangas issued Order No. 19-UI-137706, dismissing claimant's late request for hearing subject to her right to renew the request by responding to an appellant questionnaire by October 22, 2019. On October 14, 2019, claimant responded to the appellant questionnaire. On October 30 and November 13, 2019, ALJ Wyatt conducted a hearing, and on November 21, 2019 issued Order No. 19-UI-140145, allowing claimant's late request for hearing and modifying the August 29, 2019 decision to conclude that claimant was not eligible for benefits from August 4 through September 28, 2019.<sup>1</sup> On December 3, 2019, claimant filed an application for review with the Employment Appeals Board (EAB).

Based on a *de novo* review of the entire record in this case, and pursuant to ORS 657.275(2), the portion of the order under review allowing claimant's late request for hearing is **adopted**. The remainder of this decision addresses whether claimant is eligible for benefits for the weeks at issue.

**FINDINGS OF FACT:** (1) On June 20, 2019, claimant quit working for an employer, John K. Legal DC PC. On July 22, 2019, claimant filed an initial claim for unemployment insurance benefits online. Claimant had not filed a claim for benefits since 2010. When claimant filed her initial claim online, she read an advisory stating that to receive benefits she must register with the Department iMatchSkills system and visit a WorkSource office to complete the welcome process. On July 23, 2019, the

<sup>1</sup> Order No. 19-UI-140145 mistakenly stated that it affirmed the August 29, 2019 administrative decision. However, Order No. 19-UI-140145 modified the decision to include additional weeks claimed (weeks 33-19 through 39-19).

Department sent claimant a letter stating she must complete the iMatchSkills and welcome process by August 7, 2019 to receive benefits.

(2) Claimant claimed benefits for each week from August 4, 2019 through September 28, 2019 (weeks 32-19 through 39-19). These are the weeks at issue.

(3) Claimant registered for iMatchSkills from her home computer during the week of August 4 through 10, 2019 (week 32-19). Claimant did not go to a WorkSource office to complete the welcome process<sup>2</sup> that week because she did not have childcare available.

(4) On August 9, 2019, the Department served notice of an administrative decision concluding claimant was disqualified from receiving benefits because she quit working for John K. Legal DC PC without good cause. Claimant requested a hearing on the August 9, 2019 work separation decision. The Office of Administrative Hearings (OAH) served notice of a September 5, 2019 hearing on the August 9 work separation decision.

(5) During the week of August 11, 2019 through August 17, 2019 (week 33-19), claimant went to her local WorkSource office to complete the welcome process. However, a Department representative told claimant that she could not complete the welcome process classes at that time because the Department had issued a denying decision in her case, and claimant “needed to wait for [her] hearing” before she completed the welcome process. Transcript (October 3, 2019) at 17.

(6) For each week 32-19 through 34-19, claimant received a suspension of benefits letter from the Department stating that she was denied benefits for that week because she had not “completed enrollment activity at a WorkSource Oregon center as required.” Transcript (October 30, 2019) at 12. The letters were mailed August 12, 19, and 27, 2019, respectively. The first time claimant received a suspension of benefits letter, she went to her local WorkSource office and asked about completing the welcome process. A representative told claimant, “You get these letters. Just ignore it. You have to wait until it’s approved. Once it’s approved then everything will be fine and you’ll be good.” Transcript (October 30, 2019) at 18. Each time claimant received a letter denying benefits, she brought the letter to the WorkSource office. Each time, a representative did not permit claimant to complete the welcome process and told claimant, “Don’t worry about it. Wait ‘til it’s approved.” Transcript (October 30, 2019) at 18.

(7) Claimant received the August 29, 2019 decision stating she was denied benefits for the week of August 4 through 10, 2019 (week 32-19) because she had not completed the registration requirements. Claimant took the decision to the WorkSource office and a representative told claimant she could not complete the welcome process until the work separation matter was resolved.

(8) On September 5, 2019, claimant had a hearing on the work separation decision regarding John K. Legal DC PC.

(9) On September 20, 2019, claimant spoke with the Department Unemployment Insurance Center (UI Center). A representative told claimant that the WorkSource office gave her incorrect information, and that she must complete the iMatchSkills registration and welcome process. Claimant went to the

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<sup>2</sup> The welcome process must be completed in person at a WorkSource office.

WorkSource office and they told her she could not complete the welcome process until she received the order from the September 5 work separation hearing.

(10) On September 26, 2019, OAH issued an order regarding claimant's work separation from John K. Legal DC PC concluding that claimant was not disqualified from receiving benefits because she quit work with good cause. The day claimant received that order, during week 40-19, she took the order to her local WorkSource office and was permitted to complete the welcome process. Claimant also provided some information that was allegedly missing from her iMatchSkills registration.

**CONCLUSIONS AND REASONS:** Claimant is not eligible for benefits for week 32-19. Claimant is eligible for benefits for weeks 33-19 through 39-19.

ORS 657.155(1)(a) states that an unemployed individual is eligible to receive benefits only if the individual has registered for work and thereafter continued to report at an employment office in accordance with Department rules. ORS 657.159 states that to satisfy the registration requirement of ORS 657.155(1) an individual shall submit such information regarding the individual's job qualifications, training and experience as the Department requests.

The order under review concluded that claimant was not eligible for benefits for all the weeks at issue because although her local WorkSource representatives told her repeatedly that she could not complete the welcome process until her work separation from John K. Legal DC PC was adjudicated, claimant received the Department's letters stating she needed to complete the welcome process and could have called the UI Center number listed on those letters "in order to receive correct advice" regarding her need to complete the welcome process requirement. Order No. 19-UI-140145 at 6. The order further reasoned that claimant could have completed the welcome process at a different WorkSource office, if necessary. Order No. 19-UI-140145 at 6. Although the order correctly concludes that there is no good cause exception to the registration requirements, EAB concludes that the doctrine of equitable estoppel applies in this case, and that claimant is eligible for benefits for the weeks she was prevented from complying with the Department's requirements by Department employees.

The doctrine of equitable estoppel "requires proof of a false representation, (1) of which the other party was ignorant, (2) made with the knowledge of the facts, (3) made with the intention that it would induce action by the other party, and (4) that induced the other party to act upon it." *Keppinger v. Hanson Crushing, Inc.*, 161 Or App 424, 428, 983 P2d 1084 (1999) (citation omitted). In addition, to establish estoppel against a state agency, a party "must have relied on the agency's representations and the party's reliance must have been reasonable." *State ex rel SOSOC v. Dennis*, 173 Or App 604, 611, 25 P3d 341, *rev den*, 332 Or 448 (2001) (citing *Dept. of Transportation v. Hewett Professional Group*, 321 Or 118, 126, 895 P2d 755 (1995)).

Claimant did not complete the welcome process during the week of August 4 through August 10, 2019 (week 32-19) because she lacked childcare, and not due to Department misinformation. Claimant therefore is not eligible for benefits for that week.

However, beginning during week 33-19, and repeatedly each week until she received the hearing order regarding her work separation during week 40-19, the undisputed facts show that claimant was prevented by Department employees from completing the welcome process before week 40-19. Beginning in the week 33-19, claimant went to her local WorkSource office where the representatives

there gave claimant the false information that she was not permitted to complete the welcome process until the matter of whether she was disqualified from benefits based on her work separation was resolved. The representatives' misinformation was made to induce claimant to refrain from completing the welcome process. Moreover, the misinformation was the reason claimant did not complete the welcome process before week 40-19. Claimant was present at the WorkSource office during each week from 33-19 through 39-19, and would more than likely have completed the welcome process had she been permitted to do so.

Throughout weeks 33-19 through 39-19, claimant took the suspense letters and the August 29, 2019 administrative decision to the WorkSource office and asked about completing the welcome process. Each time, the WorkSource office gave her the same misinformation. Claimant was ignorant that the information was false. She had not filed a claim for benefits since 2010, and had no reason to suspect that the WorkSource information was inaccurate. Nor is it objectively illogical that a claimant would have to wait to complete the welcome process until they are qualified to receive benefits. Because claimant took the letters with her, it is more likely than not that claimant provided the Department with accurate information about the facts of her claim, and that the Department, with knowledge of those facts, told claimant she could not complete the welcome process. Even after a UI Center employee prompted claimant to return to WorkSource to complete the welcome process, the WorkSource office again did not permit claimant to complete the welcome process.

Claimant's reliance on the WorkSource representative's misrepresentations was reasonable. Claimant testified that she "honestly didn't know" that the information she received from WorkSource was incorrect. Transcript (November 13, 2019) at 37. For the same reason, claimant did not call the UI Center before September 20 or go to another WorkSource office to complete the welcome process. She did not know to do those things because she did not know the information from her local WorkSource office was incorrect. Even when the UI Center told claimant on September 20 that WorkSource was incorrect, and that she needed to complete the welcome process, claimant had no reason to prefer that advice to the subsequent incorrect information she received from the WorkSource office. It is reasonable that claimant would believe the WorkSource office would give her accurate information about a process that she was expected to complete in the WorkSource office.

For the foregoing reasons, the Department is estopped from denying claimant benefits based on her failure to complete her registration requirements following Department rules during weeks 33-19 through 39-19. Accordingly, claimant is eligible for benefits for weeks 33-19 through 39-19.

**DECISION:** Order No. 19-UI-140145 is modified, as outlined above.

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

**DATE of Service:** January 6, 2020

**NOTE:** This decision modifies an order that denied benefits. Please note that payment of benefits, if any are owed, may take approximately a week for the Department to complete.

**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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# Understanding Your Employment Appeals Board Decision

## English

Attention – This decision affects your unemployment benefits. If you do not understand this decision, contact the Employment Appeals Board immediately. If you do not agree with this decision, you may file a Petition for Judicial Review with the Oregon Court of Appeals following the instructions written at the end of the decision.

## Simplified Chinese

注意 – 本判決會影響您的失業救濟金。如果您不明白本判決，請立即聯繫就業上訴委員會。如果您不同意此判決，您可以按照該判決結尾所寫的說明，向俄勒岡州上訴法院提出司法複審申請。

## Traditional Chinese

注意 – 本判決會影響您的失業救濟金。如果您不明白本判決，請立即聯繫就業上訴委員會。如果您不同意此判決，您可以按照該判決結尾所寫的說明，向俄勒岡州上訴法院提出司法複審申請。

## Tagalog

Paalala – Nakakaapekto ang desisyong ito sa iyong mga benepisyo sa pagkawala ng trabaho. Kung hindi mo naiintindihan ang desisyong ito, makipag-ugnayan kaagad sa Lupon ng mga Apela sa Trabaho (Employment Appeals Board). Kung hindi ka sumasang-ayon sa desisyong ito, maaari kang maghain ng isang Petisyon sa Pagsusuri ng Hukuman (Petition for Judicial Review) sa Hukuman sa Paghahabol (Court of Appeals) ng Oregon na sinusunod ang mga tagubilin na nakasulat sa dulo ng desisyong ito.

## Vietnamese

Chú ý - Quyết định này ảnh hưởng đến trợ cấp thất nghiệp của quý vị. Nếu quý vị không hiểu quyết định này, hãy liên lạc với Ban Kháng Cáo Việc Làm ngay lập tức. Nếu quý vị không đồng ý với quyết định này, quý vị có thể nộp Đơn Xin Tái Xét Tư Pháp với Tòa Kháng Cáo Oregon theo các hướng dẫn được viết ra ở cuối quyết định này.

## Spanish

Atención – Esta decisión afecta sus beneficios de desempleo. Si no entiende esta decisión, comuníquese inmediatamente con la Junta de Apelaciones de Empleo. Si no está de acuerdo con esta decisión, puede presentar una Aplicación de Revisión Judicial ante el Tribunal de Apelaciones de Oregon siguiendo las instrucciones escritas al final de la decisión.

## Russian

Внимание – Данное решение влияет на ваше пособие по безработице. Если решение Вам непонятно – немедленно обратитесь в Апелляционный Комитет по Трудоустройству. Если Вы не согласны с принятым решением, вы можете подать Ходатайство о Пересмотре Судебного Решения в Апелляционный Суд штата Орегон, следуя инструкциям, описанным в конце решения.

**Khmer**

ចំណុចសំខាន់ – សេចក្តីសម្រេចនេះមានផលប៉ះពាល់ដល់អត្ថប្រយោជន៍គ្មានការងារធ្វើរបស់លោកអ្នក។ ប្រសិនបើលោកអ្នកមិនយល់អំពីសេចក្តីសម្រេចនេះ សូមទាក់ទងគណៈកម្មការឧទ្ធរណ៍ការងារភ្លាមៗ។ ប្រសិនបើលោកអ្នកមិនយល់ស្របចំពោះសេចក្តីសម្រេចនេះទេ លោកអ្នកអាចដាក់ពាក្យប្តឹងសុំឲ្យមានការពិនិត្យរឿងក្តីឡើងវិញជាមួយតុលាការឧទ្ធរណ៍រដ្ឋ Oregon ដោយអនុវត្តតាមសេចក្តីណែនាំដែលសរសេរនៅខាងចុងបញ្ចប់នៃសេចក្តីសម្រេចនេះ។

**Laotian**

ເອົາໃຈໃສ່ – ຄຳຕັດສິນນີ້ມີຜົນກະທົບຕໍ່ກັບເງິນຊ່ວຍເຫຼືອການຫວ່າງງານຂອງທ່ານ. ຖ້າທ່ານບໍ່ເຂົ້າໃຈຄຳຕັດສິນນີ້, ກະລຸນາຕິດຕໍ່ຫາຄະນະກຳມະການອຸທອນການຈ້າງງານໃນທັນທີ. ຖ້າທ່ານບໍ່ເຫັນດີນຳຄຳຕັດສິນນີ້, ທ່ານສາມາດຍື່ນຄຳຮ້ອງຂໍການທົບທວນຄຳຕັດສິນນຳສານອຸທອນລັດ Oregon ໄດ້ໂດຍປະຕິບັດຕາມຄຳແນະນຳທີ່ບອກໄວ້ຢູ່ຕອນທ້າຍຂອງຄຳຕັດສິນນີ້.

**Arabic**

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**Farsi**

توجه - این حکم بر مزایای بیکاری شما تاثیر می گذارد. اگر با این تصمیم موافق نیستید، بلافاصله با هیأت فرجام خواهی استخدام تماس بگیرید. اگر از این حکم رضایت ندارید، می‌توانید با استفاده از دستور العمل موجود در پایان آن، از دادگاه تجدید نظر اورگان درخواست تجدید نظر کنید.

**Employment Appeals Board - 875 Union Street NE | Salem, OR 97311**  
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