

**EMPLOYMENT APPEALS BOARD DECISION**  
**2020-EAB-0755**

*Affirmed*  
*Ineligible for PEUC Benefits Weeks 28-20 to 40-20*

**PROCEDURAL HISTORY:** On October 19, 2020, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant was not eligible for Pandemic Emergency Unemployment Compensation (PEUC) benefits for the weeks of July 5, 2020 through October 10, 2020 (decision # 141344). Claimant filed a timely request for hearing. On November 18, 2020, ALJ Davis conducted a hearing, and on November 19, 2020 issued Order No. 20-UI-156666, modifying decision # 141344 and concluding that claimant was not eligible for PEUC benefits for the weeks of July 5, 2020 through October 3, 2020. On December 2, 2020, claimant filed an application for review with the Employment Appeals Board (EAB).

**WRITTEN ARGUMENT:** Claimant's argument contained information that was not part of the hearing record, and did not show that factors or circumstances beyond claimant's reasonable control prevented them from offering the information during the hearing. Under ORS 657.275(2) and OAR 471-041-0090 (May 13, 2019), EAB considered only information received into evidence at the hearing when reaching this decision.

Even if EAB had considered claimant's written argument, it would not have changed the outcome of this decision because claimant has not provided facts showing that he was eligible for PEUC during the period at issue in this matter. In summary, claimant argued that he had applied for extended benefits, rather than PEUC, as decision # 141344 had indicated; that the State of Washington should not be liable to pay claimant benefits because the majority of his wages were earned in Oregon; that he applied for benefits in Washington, but Washington found him ineligible due to insufficient wages; and that he felt that he was not actually employed by the Washington company which paid him wages in 2019. Claimant's Written Argument at 2, 3.

First, while claimant may have later applied for extended benefits, the record shows that he both applied for and was paid PEUC benefits starting in July 2020. Decision # 141344 retroactively addressed the Department's initial determination that he was eligible for PEUC benefits for the period at issue even though claimant later applied for a different type of benefits. Next, eligibility for a combined-wage claim is not determined by which of the two states in which claimant earned wages paid him the most

wages. The record shows that claimant had enough hours and earnings between the two states to qualify for a valid claim in Washington, regardless of where claimant earned the majority of his wages. Similarly, while claimant submitted evidence that the State of Washington determined that he did not have a valid claim, that evidence shows that the State of Washington determined claimant's benefit year to be October 4, 2020 through October 2, 2021, and considered only wages earned in Washington in making that determination. Claimant's Written Argument at 7 to 9. It does not show that claimant would not have had a valid Washington had he applied for benefits there during the period at issue (a full calendar quarter prior), nor that he would not have had a valid Washington claim if his Oregon wages had been included the State of Washington's claim determination.

Finally, claimant suggested that because he only attended an orientation for the Washington employer and did not complete a timecard, he was "not employed with them." Claimant's Written Argument at 3. However, claimant stated that the orientation was paid, and neither the facts nor the law show that attending a paid orientation is not "employment."

**FINDINGS OF FACT:** (1) Claimant filed an initial claim for unemployment insurance benefits in Oregon on January 2, 2020, which the Department determined was a valid claim with a benefit year ending on January 2, 2021. Claimant claimed and was paid regular benefits through the week of July 4, 2020, at which point claimant exhausted his regular benefits.

(2) For the weeks of July 5, 2020 through October 3, 2020 (weeks 28-20 through 40-20), claimant claimed and was paid PEUC benefits. Weeks 28-20 through 40-20 are the weeks at issue. Claimant exhausted his PEUC benefits on October 3, 2020.

(3) Once claimant had exhausted his PEUC benefits, the Department investigated his claim to determine if he was eligible for extended benefits. In the course of their investigation, the Department discovered that claimant had been paid for work performed during the fourth quarter of 2019 in Washington. Claimant had not reported that employment when he filed his initial claim on January 2, 2020. Based on this new information, the Department determined that claimant had a sufficient combination of Washington and Oregon wages to be eligible for a Washington claim beginning on July 5, 2020.

**CONCLUSIONS AND REASONS:** Claimant is not eligible for PEUC benefits for the weeks at issue.

Title II, Subtitle A, Section 2107 of the Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020, Public Law (Pub. L.) 116-136 provides, in relevant part:

(a) FEDERAL-STATE AGREEMENTS.—

\* \* \*

(2) PROVISIONS OF AGREEMENT.—Any agreement under paragraph (1) shall provide that the State agency of the State will make payments of pandemic emergency unemployment compensation to individuals who—

(A) have exhausted all rights to regular compensation under the State law or under Federal law with respect to a benefit year (excluding any benefit year that ended before July 1, 2019);

(B) have no rights to regular compensation with respect to a week under such law or any other State unemployment compensation law or to compensation under any other Federal law;

\* \* \*

To qualify for PEUC benefits for the weeks at issue, the record must show both that claimant exhausted his rights to regular benefits, and that he did not have rights to regular benefits for the weeks at issue under any other State unemployment compensation law. At hearing, the Department's witness testified that claimant's earnings and hours in Washington, when combined with Oregon wages paid to claimant but not used in the determination of his Oregon claim that expired on January 2, 2021, were sufficient to establish a valid combined-wage claim in Washington beginning on July 5, 2020. Claimant did not offer evidence that contradicted the Department's testimony. Therefore, because claimant was eligible for regular benefits in Washington during the weeks at issue, he was not eligible for PEUC benefits during weeks at issue.

**DECISION:** Order No. 20-UI-156666 is affirmed.

S. Alba and D. P. Hettle.

**DATE of Service:** January 7, 2021

**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 desisyon.

## 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 ໄດ້ ໂດຍປະຕິບັດຕາມຄໍາແນະນໍາທີ່ບອກໄວ້ຢູ່ຕອນຫ້າຍຂອງຄໍາຕັດສິນນີ້.

**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.

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