

EMPLOYMENT APPEALS BOARD DECISION
2020-EAB-0768

Affirmed
Overpayment Assessed

PROCEDURAL HISTORY: On October 5, 2020, the Oregon Employment Department (the Department) served notice of an administrative decision assessing an overpayment of \$1,743 in regular unemployment insurance benefits and \$4,200 of Federal Pandemic Unemployment Compensation (FPUC) benefits that claimant was required to repay to the Department (decision # 93016). Claimant filed a timely request for hearing. On November 10, 2020, ALJ Snyder conducted a hearing, and on November 18, 2020 issued Order No. 20-UI-156606, affirming decision # 93016. On December 7, 2020, claimant filed an application for review with the Employment Appeals Board (EAB).

FINDINGS OF FACT: (1) On December 3, 2019, claimant filed an initial claim for unemployment insurance benefits. The Department established claimant's weekly benefit amount at \$249.

(2) After claimant filed her initial claim for benefits, the Department determined that claimant was ineligible for benefits because she was not available for all suitable work opportunities. However, the Department failed to key in to its system correctly the information relating to claimant being ineligible for benefits.

(3) Claimant filed claims for regular benefits for the weeks of May 17, 2020 through July 4, 2020 (weeks 21-20 through 27-20), the weeks at issue. As a result of the Department's failure to key in to its system correctly the information relating to claimant's ineligibility for benefits, claimant received \$249 of regular benefits for each of the weeks at issue. Claimant also received \$600 of FPUC benefits for each of those weeks. For the seven weeks at issue, claimant received total of \$1,743 in regular benefits and \$4,200 in FPUC benefits.

(4) After claimant claimed benefits for week 27-20, the Department succeeded in correctly keying in to its system the information relating to claimant's ineligibility for benefits during the period at issue. On July 9, 2020, the Department issued an administrative decision concluding that claimant was ineligible for benefits during the weeks at issue because she was not available for all suitable work opportunities. Claimant did not appeal the July 9, 2020 administrative decision in a timely manner and it became final.

CONCLUSIONS AND REASONS: Claimant received \$1,743 in regular benefits and \$4,200 in FPUC benefits to which she was not entitled. Claimant is liable for an overpayment of \$1,743 in regular benefits to be deducted from future benefits otherwise payable under ORS Chapter 657. Claimant is also liable for an overpayment of \$4,200 in FPUC benefits to be deducted from future regular or FPUC payments to which claimant is otherwise entitled.

Overpayment of Regular Benefits. ORS 657.315(1) provides, in relevant part, that an individual who has been overpaid benefits because of an error not caused by the individual's false statement, misrepresentation of a material fact or failure to disclose a material fact, or because an initial decision to pay benefits is subsequently reversed by a decision finding the individual is not eligible for the benefits, is liable to have the amount deducted from any future benefits otherwise payable to the individual under this chapter for any week or weeks within five years following the week in which the decision establishing the erroneous payment became final.

During the weeks at issue, claimant was ineligible to receive regular benefits due to being unavailable for all suitable work opportunities as determined by the July 9, 2020 administrative decision, which became final without claimant having filed a timely request for hearing. Claimant erroneously received benefits for those weeks because the Department failed to key in to its system correctly the information relating to claimant being ineligible for benefits. Thus, claimant was paid benefits to which she was not entitled. Because the Department overpaid claimant due to agency error (rather than because claimant made a misrepresentation or failed to disclose a material fact), claimant is not liable to repay the benefits. However, claimant is liable to have the \$1,743 she received in regular benefits during the weeks at issue deducted from any future benefits otherwise payable to her under ORS Chapter 657.

Overpayment of FPUC Benefits. Under the provisions of the Coronavirus Aid, Relief and Economic Security (CARES) Act of 2020, Pub. L. 116-136, claimant also received \$4,200 in FPUC benefits to which she was not entitled because she did not qualify for benefits under state law as explained above. Pursuant to Pub. L. 116-136, § 2104(f)(2) (July 2, 2020), an individual who receives FPUC payments to which the individual was not entitled is liable to repay those benefits, unless the Department waives such repayment because it determines that the payment of those benefits was without fault on the part of the individual and such repayment would be contrary to equity and good conscience. The record does not show the Department has waived repayment here. Therefore, claimant is liable for the overpayment of \$4,200 in FPUC benefits she received during the weeks at issue. Under Pub. L. 116-136, § 2104(f)(3), the Department may recover the FPUC benefits by deduction from any future regular or FPUC payments to which claimant is otherwise entitled.

DECISION: Order No. 20-UI-156606 is affirmed.

S. Alba and D. P. Hettle.

DATE of Service: January 8, 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. 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 ໄດ້ ໂດຍປະຕິບັດຕາມຄຳແນະນຳທີ່ບອກໄວ້ຢູ່ຕອນທ້າຍຂອງຄຳຕັດສິນນີ້.

Arabic

هذا القرار قد يؤثر على منحة البطالة الخاصة بك، إذا لم تفهم هذا القرار، إتصل بمجلس منازعات العمل فوراً، و إذا كنت لا توافق على هذا القرار، يمكنك رفع شكوى للمراجعة القانونية بمحكمة الاستئناف بأوريغون و ذلك بإتباع الإرشادات المدرجة أسفل القرار.

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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