

EMPLOYMENT APPEALS BOARD DECISION
2021-EAB-0381

Affirmed
Ineligible for Pandemic Unemployment Assistance

PROCEDURAL HISTORY: On February 25, 2021, the Oregon Employment Department (the Department) served a Notice of Determination for Pandemic Unemployment Assistance (PUA) concluding that claimant was not entitled to receive PUA benefits effective March 8, 2020. Claimant filed a timely request for hearing. On April 29, 2021, ALJ Snyder conducted a hearing, and on May 7, 2021 issued Order No. 21-UI-166387, affirming the February 25, 2021 administrative decision. On May 18, 2021, 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 her 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. EAB considered claimant's argument to the extent it was based on the record.

FINDINGS OF FACT: (1) In March 2020, claimant filed an initial claim for benefits under the regular unemployment insurance program (Regular UI). The Department determined that claimant had a valid Regular UI claim with a weekly benefit amount of \$256.

(2) Claimant claimed benefits under her Regular UI claim for the weeks of March 15, 2020 through December 26, 2020 (weeks 12-20 through 52-20) and received benefits for the weeks in which her weekly earnings did not exceed her weekly benefit amount. Following the last week she claimed, claimant had a remaining balance on her Regular UI claim of \$4,173.

(3) On November 25, 2020, claimant filed an initial claim for benefits under the PUA program. Claimant claimed benefits under her PUA claim retroactively for each of the weeks of March 15, 2020 through December 26, 2020 (weeks 12-20 through 52-20), the weeks at issue.

(4) For each of the weeks claimant claimed PUA benefits, claimant remained eligible for her Regular UI claim and her rights to her Regular UI claim were unexhausted. As a result, the Department deemed claimant not entitled to PUA and did not pay claimant benefits on her PUA claim.

CONCLUSIONS AND REASONS: Claimant was not entitled to receive Pandemic Unemployment Assistance benefits for weeks 12-20 through 52-20.

Under the CARES Act Pub. L. 116-136, to be entitled to receive PUA benefits, an individual must be a “covered individual” as that term is defined by the Act. Pub. L. 116-136, § 2102(b). In pertinent part, the Act defines a “covered individual” as an individual who “is not eligible for regular compensation . . . under State or Federal law . . . including an individual who has exhausted all rights to regular unemployment . . . under State or Federal law[.]” Pub. L. 116-136, § 2102(a)(3)(A)(i).

Claimant was not entitled to receive PUA benefits during the weeks at issue because she did not constitute a “covered individual” under § 2102(a)(3)(A) because she was eligible for Regular UI benefits during the weeks at issue and had not exhausted all rights to Regular UI for those weeks. During the weeks at issue, claimant’s Regular UI claim was valid, had a weekly benefit amount of \$256, and following the last week she claimed, had a balance remaining of \$4,173.

For some of the weeks claimant claimed Regular UI, she reported earnings that exceeded the weekly benefit amount of her Regular UI claim, and for that reason was not paid benefits with respect to those particular weeks because she did not constitute an “unemployed individual.”¹ However, this did not operate to invalidate claimant’s Regular UI claim or exhaust all of her rights to Regular UI. Earnings information is subject to change and is assessed with respect to each particular week claimed. The non-payment of Regular UI benefits for some of the weeks at issue applied only to those particular weeks, not claimant’s Regular UI claim in its entirety. During each of the weeks that claimant earned more than her weekly benefit amount and therefore did not receive benefits, her Regular UI claim remained valid and unexhausted. Therefore, the record shows that claimant was eligible for and had not exhausted all rights to her Regular UI claim during the weeks at issue, and for that reason claimant was not a “covered individual” entitled to receive PUA benefits for those weeks.

For these reasons, claimant was not a “covered individual” within the meaning of the CARES Act, and therefore was not eligible to receive PUA benefits for weeks 12-20 through 52-20.

DECISION: Order No. 21-UI-166387 is affirmed.

D. Hettle and A. Steger-Bentz;
S. Alba, not participating.

DATE of Service: June 23, 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

¹ Under ORS 657.155(1), to receive benefits “with respect to any week” a claimant must constitute an “unemployed individual.” A claimant is deemed an unemployed individual “in any week of less than full-time work if the remuneration paid . . . for services performed during the week is less than the individual’s weekly benefit amount.” ORS 657.100(1). Thus, if a claimant earns more than their weekly benefit amount in a particular week, they are not deemed “unemployed” and may not receive benefits for that particular week.

‘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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