

EMPLOYMENT APPEALS BOARD DECISION
2021-EAB-0727

Affirmed
Late Claim for Benefits Denied (Week 21-21)

PROCEDURAL HISTORY: On June 30, 2021, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant filed a late claim for unemployment insurance benefits for the week of May 23, 2021 through May 29, 2021 (week 21-21) and was denied benefits for that week (decision # 161426). Claimant filed a timely request for hearing. On August 16, 2021, ALJ Murdock conducted a hearing, and on August 17, 2021 issued Order No. 21-UI-172734, affirming decision # 161426. On September 6, 2021, claimant filed an application for review with the Employment Appeals Board (EAB).

WRITTEN ARGUMENT: EAB considered claimant's written argument in reaching this decision.

EVIDENTIARY MATTER: EAB has considered additional evidence when reaching this decision as necessary to complete the record under OAR 471-041-0090(1)(a) (May 13, 2019). The additional evidence consists of a June 2, 2021 Department letter to claimant stating that her regular unemployment insurance benefits claim balance was zero after she claimed week 20-21, and has been marked as EAB Exhibit 1, and a copy provided to the parties with this decision. Any party that objects to our admitting EAB Exhibit 1 must submit such objection to this office in writing, setting forth the basis of the objection in writing, within ten days of our mailing this decision. OAR 471-041-0090(2). Unless such objection is received and sustained, the exhibit(s) will remain in the record.

FINDINGS OF FACT: (1) Claimant had an existing claim for regular unemployment insurance benefits, and was filing weekly claims using the Department's online claim system. Claimant claimed and received regular unemployment insurance benefits for the week of May 16, 2021 through May 22, 2021 (week 20-21).

(2) On June 2, 2021, the Department sent claimant a letter stating that the payment for week 20-21 reduced claimant's claim balance to zero, but that she might be eligible for additional unemployment benefits under another program, including Pandemic Emergency Unemployment Compensation (PEUC), or if ineligible for PEUC, Pandemic Unemployment Assistance (PUA). EAB Exhibit 1. The letter also stated that information about how to apply for these programs was available at the

Department's website, but if claimant was unable to apply online, to call the Department for assistance. EAB Exhibit 1. The letter also stated that because it might be difficult to reach the Department by telephone, to "be sure to continue filing weekly benefits while unemployed or partially employed." EAB Exhibit 1.

(3) Claimant read the June 2, 2021 letter, but did not believe the instruction that she continue to file weekly claims for benefits applied to other programs such as PEUC or PUA, or that if it did, she would use a different online claim portal to claim weeks for those programs, and that if she claimed the weeks late, they would be backdated to include week 21-21. Claimant did not understand that she should continue to claim weeks for PEUC or PUA while she was unemployed or partially employed through the same online claim system she had used for regular unemployment insurance benefits.

(4) During week 21-21, claimant tried to reach the Department by telephone, but was unsuccessful. Claimant submitted an online inquiry asking that a representative contact her regarding week 21-21. The Department did not contact claimant during week 21-21. On Saturday, June 5, 2021, the time period for claimant to make a timely weekly claim for benefits for week 21-21 passed without claimant having made a claim for benefits for week 21-21. Claimant then read about the PEUC program online, and on the evening of Friday, June 11, 2021, submitted an application for PEUC online.

(5) On Monday, June 14, 2021, a Department representative contacted claimant about her PEUC application, and assisted claimant with claiming week 21-21, the week at issue. Week 21-21 was not the first effective week of claimant's benefit year.

CONCLUSIONS AND REASONS: Claimant filed a late claim for benefits for weeks 21-21, and is not entitled to benefits for that week.

OAR 471-030-0045 (January 11, 2018) provides, in relevant part:

(1) As used in these rules, unless the context requires otherwise:

(a) "Continued Claim" means an application that certifies to the claimant's completion of one or more weeks of unemployment and to the claimant's status during these weeks. The certification may request benefits, waiting week credit, or non-compensable credit for such week or weeks. A continued claim must follow the first effective week of an initial, additional or reopen claim, or the claimant's continued claim for the preceding week[.]

* * *

(4) A continued claim must be filed no later than seven days following the end of the week for which benefits, waiting week credit, or noncompensable credit, or any combination of the foregoing is claimed, unless:

(a) The continued claim is for the first effective week of the benefit year, in which case the week must be claimed no later than 13 days following the end of the week for which waiting week credit is claimed[.]

* * *

Claimant filed her continued claim for week 21-21 late. Because Week 21-21 was not the first effective week of claimant's benefit year, claimant needed to claim week 21-21 no later than seven days following the end of that week, which was June 5, 2021. OAR 471-030-0045(4). Because claimant did not file a continued claim for week 21-21 until June 14, 2021, her continued claim for week 21-21 was late.

Claimant's attempts to obtain information about benefits for week 21-21 do not entitle her to benefits for that week because OAR 471-030-0045(4) contains no good-cause exception for failing to file a timely continued claim. Claimant attempted to contact the Department regarding week 21-21 by telephone and an online inquiry, possibly by June 5, 2021. However, claimant did not actually file a continued claim for week 21-21 until June 14, 2021. Claimant's late claim was due to her misunderstanding of how to claim week 21-21, and her assumption that the Department would backdate her claim if it was late. The advisory in the June 2, 2021 letter from the Department, however minimal, stated that claimant should continue to claim benefits if unemployed, especially since it was difficult to contact a Department representative at that time. Claimant encountered difficulty in learning that she must file a claim for PEUC no later than seven days following the end of each week using the same online portal that she used for regular unemployment insurance benefits. However, because there is no good cause exception for failing to file a timely continued claim, despite claimant's misunderstanding of the claim process, EAB has no authority to allow claimant's late continued claim for week 21-21. Therefore, because claimant filed a late claim for week 21-21, claimant is not entitled to benefits for that week.

DECISION: Order No. 21-UI-172734 is affirmed.

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

DATE of Service: October 13, 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 ໂດຍປະຕິບັດຕາມຄຳແນະນຳທີ່ບອກໄວ້ຢູ່ຕອນຫ້າຍຂອງຄຳຕັດສິນນີ້.

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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El Departamento de Empleo de Oregon es un programa que respeta la igualdad de oportunidades. Disponemos de servicios o ayudas auxiliares, formatos alternos y asistencia de idiomas para personas con discapacidades o conocimiento limitado del inglés, a pedido y sin costo.