

EMPLOYMENT APPEALS BOARD DECISION
2021-EAB-0796

Reversed ~ Eligible Week 28-21
Reversada ~ Elegible la Semana 28-21

PROCEDURAL HISTORY: On August 5, 2021, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant was ineligible to receive benefits for the week of July 11, 2021 through July 17, 2021 (week 28-21) and until the reason for denial had ended because claimant failed to register for work in accordance with the Department's rules. Claimant filed a timely request for hearing. On September 20, 2021, ALJ Logan conducted a hearing that was interpreted in Spanish, and issued Order No. 21-UI-175173, affirming the August 5, 2021 administrative decision. On October 4, 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.

FINDINGS OF FACT: (1) In March 2020, the Department temporarily suspended the normal requirement that all claimant's register and complete the "job seeker profile" for iMatchSkills¹ with the Department. Transcript at 12. Claimant speaks Spanish and has limited proficiency in English.

(2) On May 21, 2021, claimant filed an initial claim for unemployment insurance benefits through a telephone call with a Department representative. Shortly after claimant filed her initial claim, the Department reinstated the requirement that all claimants register for iMatchSkills and complete a job seeker profile.

¹ iMatchSkills is a system that allows the Department to match claimants who have certain skills with employers seeking claimants with those skills.

(3) Throughout June 2021, claimant's legal representatives sent five emails to the Department's language access email stating that claimant spoke Spanish and asking that the Department assist claimant by telephone "with her UI" and with filing her weekly claims. Exhibit 1. The Department did not respond to the emails or call claimant in June 2021.

(4) Sometime between June 28, 2021 and July 9, 2021, the Department mailed claimant two letters, written in English, stating that she was required to "register for work through WorkSource Oregon's iMatchSkills portal at iMatchSkills.org" by July 17, 2021, and that if she failed to complete the two-step process, including the registrations and "job seeker profile" by that time, her benefits would stop until she completed the iMatchSkills requirements. Transcript at 11. The letters contained telephone numbers for the Department's local WorkSource offices, and the "language access" telephone number if a claimant needed help in a language other than English. Transcript at 13.

(5) On July 6, 2021 and July 12, 2021, claimant's legal representatives sent emails to the language access email stating that claimant spoke Spanish, and providing claimant's telephone number and asking that the Department call claimant and assist her with filing her weekly claims. The Department did not respond to the emails or call claimant in July 2021.

(6) Claimant did not have a computer, and had difficulty using computers. Claimant tried to contact the Department by telephone multiple times on three different days regarding the letters she received from the Department in early July 2021, but received busy signals each time she called. Claimant did not complete her iMatchSkills job seeker profile by July 17, 2021.

(7) Claimant filed a weekly claim for unemployment insurance benefits for the week of July 11, 2021 through July 17, 2021 (week 28-21), the only week at issue. The Department denied benefits for week 28-21 because claimant did not complete the iMatchSkills job seeker profile by the end of week 28-21. Claimant did not understand the reason for the denial until sometime after July 20, 2021. Audio Recording at 56:38 to 57:00.

(8) On July 24, 2021, claimant began working and stopped claiming benefits.

(9) On September 13, 2021, the Department called claimant and assisted her in Spanish to complete the iMatchSkills job seeker profile over the telephone.

CONCLUSIONS AND REASONS: Claimant is eligible for benefits for week 28-21.

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. OAR 471-020-0020(1)(a) (August 8, 2004) states with limited exceptions, none of which are applicable here, that all claimants for unemployment insurance benefits shall comply with the instructions of the Department in providing such information as may be required to carry out job placement services.

The order under review concluded correctly that claimant did not complete the work registration process by the deadline of July 17, 2021. The order reasoned that claimant understood the requirement but did not complete the registration process because she started working on July 24, 2021, and that despite multiple requests to receive assistance in Spanish by telephone, “there was no reason” for the Department to contact claimant about the iMatchSkills requirement because the requests for assistance were for assistance about filing weekly claims, and not about the iMatchSkills requirement. Order No. 21-UI-175173 at 3. For these reasons, the order concluded that claimant was not eligible for benefits for week 28-21. The order’s reasoning is not supported by the record and should therefore be reversed to conclude that claimant was eligible for benefits for week 28-21.

Department policy provides that it will make efforts to assist a customer with limited English proficiency once that customer has been identified as having limited English proficiency. *E.g.*, OAR 471-040-0010 (February 10, 2012) (Provides that an individual has good cause for failing to file a timely request for hearing when the individual provides satisfactory evidence that the Department failed to follow its own policies with respect to providing service to a limited English proficient person, including the failure to communicate orally or in writing in a language that could be understood by the limited English proficient person upon gaining knowledge that the person needed or was entitled to such assistance). Here, the Department was on notice from at least when claimant’s legal representatives contacted the Department by email to its language access line multiple times during June 2021 and July 2021 that claimant had limited English proficiency, spoke Spanish, and required an interpreter by telephone to understand and communicate with the Department. Despite those contacts, the firsthand evidence from claimant was that the Department sent claimant the iMatchSkills requirement letters in English in late June 2021 and early July 2021. Claimant’s testimony that she received the letters in English outweighs the speculative testimony from the Department that because claimant’s claim was listed in Spanish, that the letters “should [have gone] out in Spanish.” Transcript at 6.

The record shows that the Department did not adequately notify claimant of her obligation to complete the job seeker portion of the iMatchSkills process by July 17, 2021 to continue receiving benefits because it sent the letters requesting that information in English, and was not available to assist claimant in Spanish with understanding the letters. The Department mailed the letters regarding the requirement to claimant in English. The record shows that claimant did not understand the iMatchSkills requirement from the letters or otherwise until July 20, 2021 or later. Claimant’s legal representatives requested assistance for claimant in Spanish by telephone, but the language access representatives did not respond to the emails or call claimant before July 17, 2021. Claimant attempted to call the Department to inquire about the letters she received, and the line was busy. In sum, the record shows that claimant was not given adequate notice of the Department’s request or instructions to provide information to carry out job placement services. Because the Department did not adequately instruct claimant to provide the information, claimant is not ineligible for week 28-21 due to a failure to register for work in accordance with the Department’s rules.

DECISION: Order No. 21-UI-175173 is set aside, as outlined above. *La Orden de la Audiencia 21-UI-175173 se deja a un lado, de acuerdo a lo indicado arriba.*

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

DATE of Service: November 10, 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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NOTA: Usted puede apelar esta decisión presentando una solicitud de revisión judicial ante la Corte de Apelaciones de Oregon (Oregon Court of Appeals) dentro de los 30 días siguientes a la fecha de notificación indicada arriba. Vea ORS 657.282. Para obtener formularios e información, puede escribir a la Corte de Apelaciones de Oregon, Sección de Registros (Oregon Court of Appeals/Records Section), 1163 State Street, Salem, Oregon 97310 o visite el sitio web en courts.oregon.gov. En este sitio web, hay información disponible en español.

Por favor, ayúdenos mejorar nuestros servicios completando un formulario de encuesta sobre nuestro servicio de atención al cliente. Para llenar este formulario, puede visitar <https://www.surveygizmo.com/s3/5552642/EAB-Customer-Service-Survey>. Puede acceder a la encuesta usando una computadora, tableta, o teléfono inteligente. Si no puede llenar el formulario sobre el internet, puede comunicarse con nuestra oficina para una copia impresa de la encuesta.



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 ໂດຍປະຕິບັດຕາມຄໍາແນະນໍາທີ່ບອກໄວ້ຢູ່ຕອນທ້າຍຂອງຄໍາຕັດສິນນີ້.

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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