

EMPLOYMENT APPEALS BOARD DECISION
2021-EAB-0904

Affirmed
Late Claim for Benefits Denied

PROCEDURAL HISTORY: On July 9, 2021, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant filed late claims for unemployment insurance benefits for the weeks from September 20, 2020 through March 13, 2021 (weeks 39-20 through 10-21) and was denied benefits for those weeks (decision # 125444). Claimant filed a timely request for hearing. On September 29, 2021, ALJ Monroe conducted a hearing, and on October 7, 2021 issued Order No. 21-UI-176662, affirming decision # 125444. On October 27, 2021, claimant filed an application for review with the Employment Appeals Board (EAB).

FINDINGS OF FACT: (1) Claimant filed an initial claim for benefits on March 17, 2020. Claimant claimed and the Department denied benefits for the weeks from September 20, 2020, through March 13, 2021 (weeks 39-20 through 10-21), the weeks at issue.

(2) After filing her initial claim for benefits, claimant filed timely weekly claims continuously through September 19, 2020 (week 38-20). During week 38-20, claimant was offered the opportunity to return to work. Claimant rejected the offer because she was concerned about being exposed to COVID-19 while working. After rejecting the offer of work, claimant was uncertain about how to respond to the questions she had to answer when she filed weekly claims for benefits. One of the questions that confused claimant was whether claimant refused an offer of work during the week claimed. Claimant attempted to contact the Department for assistance regarding how to respond to the questions when filing weekly claims. Claimant had difficulty reaching a Department representative because of the wait times to speak with a representative. For this reason, claimant discontinued attempting to speak with a Department representative after early October 2020.

(3) From September 20, 2020 until June 17, 2021, claimant did not file weekly claims because she was concerned about how to respond accurately to the weekly claim questions, and did not want to provide inaccurate information to the Department.

(4) On June 18, 2021 (during week 25-21), claimant filed weekly claims for all of the weeks at issue.

CONCLUSIONS AND REASONS: Claimant filed late claims for benefits for weeks 39-20 through 10-21 and is not entitled to benefits for those weeks.

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 continued claims for weeks 39-20 through 10-21. None of the weeks at issue was the first effective week of claimant’s benefit year. Therefore, under OAR 471-030-0045(4), her continued claims for benefits for weeks 39-20, 40-20, 41-20, 42-20, 43-20, and 44-20 were due by October 3, 2020, October 10, 2020, October 17, 2020, October 24, 2020, October 31, 2020, and November 7, 2020, respectively. Claimant’s continued claims for benefits for weeks 45-20, 46-20, 47-20, 48-20, and 49-20 were due by November 14, 2020, November 21, 2020, November 28, 2020, December 5, 2020, and December 12, 2020, respectively. Claimant’s continued claims for benefits for weeks 50-20, 51-20, 52-20, and 53-20 were due by December 19, 2020, December 26, 2020, January 2, 2021, and January 9, 2021, respectively. Claimant’s continued claims for benefits for weeks 01-21, 02-21, 03-21, 04-21, and 05-21 were due by January 16, 2021, January 23, 2021, January 30, 2021, February 6, 2021, and February 13, 2021, respectively. Claimant’s continued claims for benefits for weeks 06-21, 07-21, 08-21, 09-21, and 10-21 were due by February 20, 2021, February 27, 2021, March 6, 2021, March 13, 2021, and March 20, 2021, respectively.

The record shows that claimant did not file a claim for each of the weeks at issue by the timely filing deadline for each week; claimant claimed all of the weeks after the seven-day deadline for each respective week. Claimant filed the claims late because she was uncertain about how to respond to the weekly claim questions, and was not able to reach a Department representative by telephone without having to endure long wait times when she tried to call the Department through early October 2020. However, OAR 471-030-0045(4) contains no good-cause exception for failing to file a timely continued

claim. Therefore, because claimant filed late claims for the weeks at issue, claimant is not entitled to benefits for weeks 39-20 through 10-21.

DECISION: Order No. 21-UI-176662 is affirmed.

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

DATE of Service: December 1, 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 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

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 الإستئناف 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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