

EMPLOYMENT APPEALS BOARD DECISION
2021-EAB-0984

Affirmed
Ineligible Weeks 29-21 through 33-21

PROCEDURAL HISTORY: On August 11, 2021, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant failed to register for work in accordance with the Department's rules and therefore was denied unemployment insurance benefits for the week of July 18, 2021 through July 24, 2021 (week 29-21) and until the reason for the denial ended. Claimant filed a timely request for hearing. On November 2, 2021, ALJ Davis conducted a hearing and issued Order No. 21-UI-178818, modifying the August 11, 2021 administrative decision by concluding that claimant was not eligible for benefits for the weeks including July 18, 2021 through August 21, 2021 (weeks 29-21 through 33-21) for the same reason. On November 17, 2021, claimant filed an application for review with the Employment Appeals Board (EAB).

FINDINGS OF FACT: (1) On March 25, 2020, claimant filed an initial claim for unemployment insurance benefits.

(2) In November 2020, claimant exhausted his regular unemployment insurance (regular UI) benefits. Claimant received an extension of his regular UI benefits from the Department. Claimant also filed an initial claim for Pandemic Unemployment Assistance (PUA) benefits.

(3) In February 2021, the Department mailed claimant a letter that notified him that he did not qualify for PUA benefits. Claimant contacted the Department to "straighten . . . out" his eligibility for PUA. Audio Record at 19:43. After claimant's call, the Department "paid [claimant] the current claim [and] went back and paid [claimant] the claims they had denied." Audio Record at 19:47 to 19:56. Although the payments that the Department made were regular UI benefits, claimant mistakenly believed that the Department paid the benefits pursuant to the PUA program, and that he was only receiving PUA benefits going forward.

(4) On July 9, 2021, the Department mailed claimant a letter that notified him that to be eligible for benefits he was required to complete the Department's iMatchSkills registration process by July 24, 2021. The Department sent this notice to correct the clerical errors that existed with their first two

mailed notices because the first two notices reflected different date deadlines for completing the iMatchSkills registration process.

(5) On July 16, 2021, the Department mailed claimant a second letter that notified him that to be eligible for benefits he was required to complete the Department's iMatchSkills registration process by July 24, 2021.

(6) On July 22, 2021, claimant logged into the iMatchSkills system in an attempt to complete the required registration. Claimant noticed that the webpage had a notice informing users that the system had been experiencing technical difficulties and that individuals receiving PUA benefits were not required to complete an iMatchSkills registration. Claimant successfully completed step one of the two-step iMatchSkills registration process by providing his basic information. Claimant did not complete step two of the registration process – the “job seeker profile” step – because he experienced computer-related difficulties. Because of the webpage notices referencing the system's technical difficulties and that PUA recipients did not need to register in iMatchSkills, claimant decided he would discontinue his attempts to complete step two and “just let it go.” Audio Record at 12:20.

(7) On July 23, 2021, the Department emailed claimant confirmation that he had completed step one of the iMatchSkills registration process, but still needed to complete step two. Claimant decided to contact the Department to finish his registration “at [his] soonest possible convenience,” instead of “try[ing] to argue the point that [he] didn't have to,” based on his mistaken belief that he was receiving PUA benefits. Audio Record at 12:33, 13:03.

(8) On August 26, 2021, claimant contacted a representative from the Department who assisted claimant with completing step two of the iMatchSkills registration process. Had claimant been correct in his mistaken belief that he had only been receiving PUA benefits, he would not have been required to register in iMatchSkills.

(9) Claimant claimed, but was not paid, benefits for the weeks from July 18, 2021 through August 21, 2021 (weeks 29-21 through 33-21), the weeks at issue.

CONCLUSIONS AND REASONS: Claimant failed to register for work in accordance with the Department's rules prior to the weeks from July 18, 2021 through August 21, 2021 (weeks 29-21 through 33-21), and is ineligible for benefits for those weeks.

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 471-030-0035 (January 11, 2018) states in relevant part:

(1) A claimant may fulfill the “registered for work” requirements of ORS 657.155(1)(a) by completion of such processes as directed by the Director in order to create a full registration for work.

(2) "Full registration for work" as used in this rule, means providing information regarding the individual's job qualifications, skills, training and experience as the Director or an authorized representative of the Director deems necessary to carry out job placement services for the individual.

* * *

OAR 471-020-0020 (August 8, 2004) states in relevant part:

(1)(a) Except for individuals identified in OAR 471-020-0021, all unemployment insurance claimants shall submit such information as may be required by the Oregon Employment Department to carry out job placement services for the individual including, but not limited to, the individual's job qualifications, training and experience. Such information shall be entered into the Business & Employment Services online job match system concurrent with, or as soon as possible following, the filing of an initial claim for unemployment insurance benefits. Entry of this information shall constitute enrollment.

* * *

Because the Department did not pay claimant benefits for the weeks at issue, it was claimant's burden to show that he was eligible for benefits for those weeks. *See Nichols v. Employment Division*, 24 Or App 195, 544 P2d 1068 (1976) (where the Department has paid benefits it has the burden to prove benefits should not have been paid; by logical extension of that principle, where benefits have not been paid claimant has the burden to prove that the Department should have paid benefits). Claimant did not meet that burden.

The record demonstrates that the Department notified claimant on two occasions that he needed to complete the iMatchSkills registration requirement by July 24, 2021. Claimant received this notification, and on July 22, 2021 logged into the iMatchSkills system and completed step one of the registration requirement. However, claimant did not complete step two of the registration requirement at that time because he experienced computer-related difficulties with the step two process and because he believed, based on his conversation with a Department representative in February of 2021, that he did not otherwise need to register in iMatchSkills based on his mistaken belief that he was only receiving PUA benefits, not regular UI benefits.

To the extent the record suggests that the Department may be estopped from denying claimant's benefit claims based on the theory that claimant's confusion over whether he was receiving PUA was due to the Department's action, estoppel is not supported by the record. The doctrine of equitable estoppel "requires proof of a false representation, (1) of which the other party was ignorant, (2) made with the knowledge of the facts, (3) made with the intention that it would induce action by the other party, and (4) that induced the other party to act upon it." *Keppinger v. Hanson Crushing, Inc.*, 161 Or App 424, 428, 983 P2d 1084 (1999) (citation omitted). In addition, to establish estoppel against a state agency, a party "must have relied on the agency's representations and the party's reliance must have been reasonable." *State ex rel SOSOC v. Dennis*, 173 Or App 604, 611, 25 P3d 341, *rev den*, 332 Or 448 (2001) (citing *Dept. of Transportation v. Hewett Professional Group*, 321 Or 118, 126, 895 P2d 755 (1995)).

Although claimant mistakenly believed that he was the recipient of PUA benefits, and not regular UI, and therefore was not required to register with iMatchSkills, the preponderance of the evidence shows that claimant's mistake was not the result of any false representation by the Department. Rather, the record shows that the Department notified claimant in February 2021 that he did not qualify for PUA benefits and claimant testified that he could not be certain that the benefits he received after February 2021 were not extended regular UI benefits as the Department had represented. Audio Record at 19:28 to 20:33. Therefore, because the record contains no evidence that the Department ever had any intention to induce claimant to disregard the iMatchSkills registration requirement, the Department is not estopped from denying claimant benefits for the weeks at issue.

The record shows that claimant attempted to complete step two of the iMatchSkills registration requirement on July 22, 2021 but may have been prevented from doing so by the Department's iMatchSkills online system. However, there is no "good cause" exception to the Department's iMatchSkills registration requirement in the applicable administrative rules or statutes. Therefore, because claimant did not complete the iMatchSkills registration requirement until August 26, 2021, claimant was ineligible for benefits for the weeks at issue.

DECISION: Order No. 21-UI-178818 is affirmed.

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

DATE of Service: December 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 '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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