

EMPLOYMENT APPEALS BOARD DECISION
2022-EAB-0139

Order No. 21-UI-183083 Affirmed ~ Late Request for Hearing Dismissed
Order No. 22-UI-183411 Affirmed ~ Overpayment, No Penalties

PROCEDURAL HISTORY: On August 27, 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 December 6, 2020. On September 16, 2021, the August 27, 2021 administrative decision became final without claimant having filed a request for hearing. On November 3, 2021, the Department served notice of an administrative decision, based in part on the August 27, 2021 administrative decision, concluding that claimant willfully made a misrepresentation and failed to report a material fact to obtain benefits, and assessing a \$7,790 overpayment of PUA benefits, a \$10,500 overpayment of Federal Pandemic Unemployment Compensation (FPUC) and a \$2743.50 monetary penalty. On November 22, 2021, claimant filed a late request for hearing on the August 27, 2021 administrative decision and a timely request for hearing on the November 3, 2021 overpayment decision.

On November 29, 2021, July 23, 2021, the Office of Administrative Hearings (OAH) served notice of a consolidated hearing scheduled for December 20, 2021 at 2:30 p.m. to consider the merits of the November 3, 2021 overpayment decision and claimant's late request for hearing of the August 27, 2021 administrative decision and, if granted, the merits of the August 27, 2021 administrative decision. On December 20, 2021, ALJ Monroe conducted the consolidated hearing, and on December 30, 2021 issued Order No. 21-UI-183083, dismissing claimant's late request for hearing on the August 27, 2021 administrative decision as late without good cause, leaving the August 27, 2021 administrative decision undisturbed. On January 6, 2022, ALJ Monroe issued Order No. 22-UI-183411, modifying the November 3, 2021 overpayment decision by concluding that the Department overpaid claimant \$7,175 in PUA benefits and \$10,500 in FPUC benefits that claimant was liable to have deducted from future benefits otherwise payable to her under ORS 657.315 and applicable federal law, but that claimant was not liable for an additional monetary penalty. On January 18, 2022, claimant filed applications for review of Orders No. 21-UI-183083 and 22-UI-183411 with the Employment Appeals Board (EAB).

Pursuant to OAR 471-041-0095 (October 29, 2006), EAB consolidated its review of Orders No. 21-UI-183083 and 22-UI-183411. For case-tracking purposes, this decision is being issued in duplicate (EAB Decisions 2022-EAB-0140 and 2022-EAB-0139).

WRITTEN ARGUMENT: EAB considered claimant’s written argument when reaching this decision.

EAB reviewed the entire consolidated hearing record. On *de novo* review and pursuant to ORS 657.275(2), the orders under review are **adopted**.¹

DECISION: Orders No. 21-UI-183083 and 22-UI-183411 are affirmed.

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

DATE of Service: March 1, 2022

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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¹ Order No. 22-UI-183411 stated in the last sentence of the first full paragraph of page 5 the (the “Overpayment of Federal Pandemic-Related Benefits” section) that claimant is liable to have “\$2,100” of overpaid PUA benefits deducted from any future benefits to which she may otherwise be entitled. Order No. 22-UI-183411 at 5. However, in the next paragraph, Order No. 22-UI-183411 stated that claimant is liable to have “\$7,175” of overpaid PUA benefits deducted from any future benefits to which she may otherwise be entitled. Order No. 22-UI-183411 at 5. Because the record shows that the “\$7,175” figure is the correct figure, and in light of the fact that Order No. 22-UI-183411 correctly references the \$7,175” figure in the final “ORDER” paragraph of Order No. 22-UI-183411, it is presumed that Order No. 22-UI-183411’s reference to “\$2,100” in the last sentence of the first full paragraph of page 5 was a scrivener’s error, and that Order No. 22-UI-183411 meant to instead state “\$7,175”. Order No. 22-UI-183411 at 6.



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 ໄດ້ໂດຍປະຕິບັດຕາມຄໍາແນະນຳທີ່ບອກໄວ້ຢູ່ຕອນທ້າຍຂອງຄໍາຕັດສິນນີ້.

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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