

EMPLOYMENT APPEALS BOARD DECISION
2022-EAB-0467

Affirmed
Eligible Weeks 43-21 through 44-21
Ineligible Weeks 45-21

PROCEDURAL HISTORY: On November 15, 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 ineligible for unemployment insurance benefits for the week of October 24, 2021 through October 30, 2021 (week 43-21), and until the reason for the denial had ended. Claimant filed a timely request for hearing. On April 7, 2022, ALJ Mott conducted a hearing and issued Order No. 22-UI-190801, modifying the November 15, 2021 administrative decision by concluding that claimant is eligible for benefits from October 24, 2021 through November 6, 2021 (weeks 43-21 through 44-21), but was ineligible for benefits for the week of November 7, 2021 through November 13, 2021 (week 45-21). On April 14, 2022, claimant filed an application for review with the Employment Appeals Board (EAB).

WRITTEN ARGUMENT: Claimant's argument contained information that was not part of the hearing record, and did not show that factors or circumstances beyond claimant's reasonable control prevented her from offering the information during the hearing. Under ORS 657.275(2) and OAR 471-041-0090 (May 13, 2019), EAB considered only information received into evidence at the hearing when reaching this decision. EAB considered claimant's argument to the extent it was based on the record.

FINDINGS OF FACT: (1) On November 28, 2020, claimant filed an initial claim for unemployment insurance benefits. Thereafter, claimant made weekly claims for benefits throughout late 2020 and into early 2021. During those weeks, because of the COVID-19 pandemic, the Department did not require claimants to complete the Department's iMatchSkills registration process to be considered registered for work and eligible for benefits.

(2) On February 24, 2021, claimant moved from Clackamas, Oregon to The Dalles, Oregon. Claimant requested the post office forward her mail to her new address in The Dalles. Shortly after moving to The Dalles, claimant stopped making weekly claims and receiving benefits.

(3) Between June 21 and July 2, 2021, the Department mailed two letters to claimant's former address in Clackamas advising that, if claimant was filing claims for benefits, she was required to complete the Department's iMatchSkills registration process by July 10, 2021. At the time the Department sent the letters, claimant was not filing weekly claims for benefits. Claimant did not receive the letters at her address in The Dalles.

(4) On June 25, 2021, claimant received a Department email stating that if claimant was receiving benefits, she was required to complete iMatchSkills registration by a deadline that would be conveyed to claimant by subsequent letter. At the time the Department sent the email, claimant was not filing weekly claims and therefore was not receiving benefits.

(5) On or about November 2, 2021, claimant restarted her initial claim for unemployment insurance benefits and resumed making weekly claims for benefits. Shortly thereafter, claimant claimed benefits for the weeks from October 24, 2021 through November 6, 2021 (week 43-21 through 44-21).

(6) On November 8, 2021, claimant received a letter from the Department stating that it did not pay claimant benefits for week 43-21 because she did not complete the iMatchSkills registration process. The letter directed claimant to "[r]egister online at oregon.gov/employ/jobseekers. Under WorkSource Oregon, select the option for iMatchSkills Register/Login." Exhibit 1 at 14. The letter provided a list of WorkSource office locations and advised claimant to call her local office if she needed help registering. The letter further advised, "Failure to complete these requirements will result in an automatic denial of your benefits, and you will remain denied until you have completed them." Exhibit 1 at 14.

(7) The week of November 7, 2021 through November 13, 2021 (week 45-21) elapsed without claimant registering for iMatchSkills. On November 15, 2021, claimant claimed benefits for week 45-21.¹ Claimant completed the registration process that same day.

(8) The Department did not pay claimant benefits for week 43-21 through 45-21, the weeks at issue, because it concluded that claimant had failed to complete the iMatchSkills registration process and therefore had not registered for work in accordance with the Department's rules.

CONCLUSIONS AND REASONS: Claimant is eligible for benefits for the weeks from October 24, 2021 through November 6, 2021 (weeks 43-21 through 44-21). However, claimant did not register for work in accordance with the Department's rules and therefore is ineligible for benefits for the week of November 7, 2021 through November 15, 2021 (week 45-21).

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(1) states that to satisfy the registration requirement of ORS 657.155(1), "at the request of the Director of the Employment Department or an authorized representative," an individual shall submit such information regarding the individual's job qualifications, training and experience.

¹ EAB has taken notice of this fact, which is contained in Employment Department records. OAR 471-041-0090(1) (May 13, 2019). Any party that objects to our taking notice of this information 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 noticed fact will remain in the record.

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 471-020-0021,² 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, claimant has the burden to show that she is 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).

The record shows that the Department did not direct claimant to register for iMatchSkills to fulfill claimant’s “registered for work” requirements for weeks 43-21 and 44-21, and thus claimant did not fail to fulfill the work registration requirements for those weeks. Although, between June 21 and July 2, 2021, the Department mailed two letters to claimant’s former address in Clackamas relating to iMatchSkills registration, these letters were not sufficient to amount to a direction that claimant satisfy the work registration requirement by completing iMatchSkills. This is because claimant did not actually receive either letter and, in any event, the letters’ instructions to complete iMatchSkills registration were contingent upon claimant having a status of actively making weekly claims for benefits, which was not applicable to claimant because she had stopped making weekly claims and receiving benefits months before the letters were mailed. Similarly, the Department’s June 25, 2021 email was insufficient to convey an instruction to register for iMatchSkills because it, too, was contingent on claimant being in active claiming status, when at the time, claimant had stopped making weekly claims and receiving

² Claimant did not assert, nor does the record otherwise show, that any of the exceptions to registration, as enumerated in OAR 471-020-0021, apply to her circumstances

benefits. The email also mentioned a follow-up letter that would set a firm deadline for claimant to complete registration, however, the record does not show that this follow-up letter was ever sent or received. For these reasons, claimant met her burden to show that, prior to her receipt of the Department's letter on November 8, 2021, the Department had not requested that claimant satisfy the work registration requirement via iMatchSkills, and claimant therefore was not required to complete iMatchSkills to fulfill the work registration requirement. Accordingly, claimant is eligible to receive benefits for weeks 43-21 and 44-21.

In contrast, as to week 45-21, the record shows that upon claimant's receipt of the letter on November 8, 2021, the Department directed claimant to fulfill her work registration requirement via the iMatchSkills process. This is because the letter claimant received on November 8, 2021 specifically directed claimant to register online for iMatchSkills. The letter advised that failure to do so would result in denial of benefits, and warned that claimant's benefits would remain denied until claimant's iMatchSkills registration was complete. The record shows that following claimant's receipt of the letter on November 8, 2021, she failed to complete the iMatchSkills registration process until November 15, 2021. Claimant also claimed benefits for week 45-21 on November 15, 2021. The record contains no evidence to show that claimant registered for iMatchSkills before making her claim for benefits for week 45-21 on November 15, 2021. Given the lack of evidence as well as the fact that claimant bears the burden, the record shows claimant claimed likely week 45-21 while her iMatchSkills registration remained incomplete. Because claimant was required to register for work by completing the iMatchSkills registration process for week 45-21 but failed to do so, claimant is not eligible to receive benefits for that week under ORS 657.155(1)(a) and 657.159(1).

For the above reasons, Claimant is eligible to receive benefits for weeks 43-21 and 44-21. However, claimant did not register for work in accordance with the Department's rules and therefore is ineligible for benefits for week 45-21.

DECISION: Order No. 22-UI-190801 is affirmed.

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

DATE of Service: July 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.

Please help us improve our service by completing an online customer service survey. To complete the survey, please go to <https://www.surveygizmo.com/s3/5552642/EAB-Customer-Service-Survey>. You can access the survey using a computer, tablet, or smartphone. If you are unable to complete the survey online and need a paper copy of the survey, please contact our office.



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 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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