

EMPLOYMENT APPEALS BOARD DECISION
2022-EAB-0476

Affirmed
Late Application for Review Allowed
Ineligible for Pandemic Unemployment Assistance
(Weeks 10-20, 14-20, 15-20, and 26-20 through 35-21)

PROCEDURAL HISTORY: On September 13, 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. Claimant filed a timely request for hearing. On February 10, 2022, ALJ Monroe conducted a hearing, and on March 23, 2022 issued Order No. 22-UI-189531, modifying the September 13, 2021 administrative decision by concluding that claimant was not eligible to receive PUA benefits for the weeks including March 1 through March 7, 2020 (week 10-20), March 29, 2020 through April 11, 2020 (weeks 14-20 through 15-20),¹ and June 21, 2020 through September 4, 2021 (weeks 26-20 through 35-21). On April 12, 2022, Order No. 22-UI-189531 became final without claimant having filed an application for review. On April 18, 2022, claimant filed a late application for review with the Employment Appeals Board (EAB).

EVIDENTIARY MATTER: EAB has considered additional evidence when reaching this decision under OAR 471-041-0090(1) (May 13, 2019). The additional evidence is the written statement claimant provided with their application for review, and has been marked as EAB Exhibit 1, and a copy provided to the parties with this decision. Any party that objects to our admitting EAB Exhibit 1 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 exhibit will remain in the record.

FINDINGS OF FACT: (1) On March 23, 2022, the Office of Administrative Hearings (OAH) mailed Order No. 22-UI-189531 to claimant's address on file with OAH. Order No. 22-UI-189531 stated, "You

¹ The weeks of March 29, 2020 through April 11, 2020 correspond to weeks 14-20 and 15-20 on the 2020 claim calendar. However, the order under review omitted week 15-20 from the parentheses the order used as a shorthand to refer to the weeks of March 29, 2020 through April 11, 2020. See Order No. 22-UI-189531 at 1, 5. The omission is presumed to be a clerical error.

may appeal this decision by filing the attached form Application for Review with the Employment Appeals Board within 20 days of the date that this decision is mailed.” Order No. 22-UI-189531 at 5. Order No. 22-UI-189531 also stated on its certificate of mailing that “Any appeal from this Order must be filed on or before April 12, 2022 to be timely.”

(2) At the time claimant received Order No. 22-UI-189531, she was suffering from a severe allergic reaction and was hospitalized or under a doctor’s care. On April 18, 2022, claimant’s severe allergic reaction and need for hospitalization or doctor’s care ceased.

(3) On April 18, 2022, claimant filed an application for review of Order No. 22-UI-189531.

CONCLUSIONS AND REASONS: Claimant’s late application for review is allowed. Claimant was not entitled to receive PUA benefits for the weeks including March 1 through March 7, 2020 (week 10-20), March 29, 2020 through April 11, 2020 (weeks 14-20 through 15-20), and June 21, 2020 through September 4, 2021 (weeks 26-20 through 35-21).

Late Application for Review. An application for review is timely if it is filed within 20 days of the date that OAH mailed the order for which review is sought. ORS 657.270(6); OAR 471-041-0070(1) (May 13, 2019). The 20-day filing period may be extended a “reasonable time” upon a showing of “good cause.” ORS 657.875; OAR 471-041-0070(2). “Good cause” means that factors or circumstances beyond the applicant’s reasonable control prevented timely filing. OAR 471-041-0070(2)(a). A “reasonable time” is seven days after the circumstances that prevented the timely filing ceased to exist. OAR 471-041-0070(2)(b). A late application for review will be dismissed unless it includes a written statement describing the circumstances that prevented a timely filing. OAR 471-041-0070(3).

The application for review of Order No. 22-UI-189531 was due by April 12, 2022. Because claimant did not file her application for review until April 18, 2022, the application for review was late. Claimant provided a written statement with the application for review. In it, claimant explained that she filed her application for review late because she suffered a severe allergic reaction and was hospitalized or under a doctor’s care at the time she received the order under review. EAB Exhibit 1 at 1. Claimant further stated that the severe reaction and need for hospitalization or doctor’s care ceased on April 18, 2022. EAB Exhibit 1 at 1.

Claimant’s evidence is sufficient to show that claimant failed to file a timely application for review because of her severe allergic reaction and need for hospitalization or doctor’s care, which were circumstances beyond her reasonable control. Claimant filed her application for review on April 18, 2022, which was the same day that claimant’s severe allergic reaction and need for hospitalization or doctor’s care ceased. Claimant therefore filed their application for review within a seven-day reasonable time after the circumstances that prevented a timely filing ceased to exist. Thus, claimant established good cause to extent the filing deadline to April 18, 2022, and the late application for review is allowed.

PUA Eligibility. EAB reviewed the entire hearing record. On *de novo* review and pursuant to ORS 657.275(2), the order under review is **adopted**. Claimant was not eligible to receive PUA benefits for weeks 10-20, 14-20, 15-20, and 26-20 through 35-21.

DECISION: Order No. 22-UI-189531 is affirmed.

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

DATE of Service: July 6, 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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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 desisyong ito.

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 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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