

EMPLOYMENT APPEALS BOARD DECISION
2022-EAB-0732

Reversed
Benefits Allowed Weeks 15-22 through 19-22

PROCEDURAL HISTORY: On April 28, 2022, 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 to receive unemployment insurance benefits for the week of April 10, 2022 through April 16, 2022 (week 15-22) and until the reason for the denial had ended. Claimant filed a timely request for hearing. On June 15, 2022, ALJ Janzen conducted a hearing, and on June 16, 2022 issued Order No. 22-UI-196266, modifying the April 28, 2022 administrative decision by concluding that claimant had failed to register for work in accordance with the Department's rules and therefore was ineligible to receive unemployment insurance benefits for the weeks including April 10, 2022 through May 14, 2022 (weeks 15-22 through 19-22). On June 28, 2022, claimant filed an application for review with the Employment Appeals Board (EAB).

FINDINGS OF FACT: (1) On March 29, 2022, claimant filed an initial claim for unemployment insurance benefits. Claimant subsequently claimed benefits for the weeks including April 10, 2022 through May 14, 2022 (weeks 15-22 through 19-22). These are the weeks at issue. The Department did not pay claimant benefits for the weeks at issue. When claimant filed his initial claim, the claims system directed him to review the Department's claimant handbook.

(2) Prior to the weeks at issue, claimant had been working for an employer, but was temporarily laid off due to a delay in the employer's workload. The employer originally told claimant that he would be returning to work on May 1, 2022, though the return-to-work date was pushed back on at least one occasion.

(3) On March 30, 2022, the Department mailed a letter to claimant which, in relevant part, advised claimant that he was required to register with iMatchSkills and make an appointment with a WorkSource Oregon office to complete the Department's orientation process no later than April 14, 2022. The letter also advised claimant that his benefits would be denied after that date if he did not complete the required steps by the deadline.

(4) Claimant completed the registration requirements on May 16, 2022 when he visited a WorkSource Oregon office and was advised to do so.

CONCLUSIONS AND REASONS: Claimant was eligible to receive benefits for the weeks at issue.

ORS 657.155(1)(a) states that an individual shall only be eligible to receive benefits with respect to any week if “[t]he individual has registered for work at and thereafter has continued to report at an employment office in accordance with” the Department’s 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 471-020-0020(1)(a) (August 8, 2004) provides, in relevant part, that except for individuals identified in OAR 471-020-0021 (January 8, 2006), all unemployment insurance claimants shall submit such information as may be required by the 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.

OAR 471-020-0021 (January 8, 2006) provides that the following unemployment insurance claimants are not required to submit registration information to the Department for job placement purposes:

- (1) Individuals claiming benefits as interstate liable claimants against the State of Oregon;
- (2) Individuals on a temporary mass layoff from a single employer;
- (3) Individuals claiming benefits through an approved shared work plan under the provisions of ORS 657.380;
- (4) Individuals claiming benefits for partial unemployment under the provisions of OAR 471-030-0060; and
- (5) Individuals who are members in good standing of a union that does not allow members to seek non-union work.

OAR 471-030-0035 (January 11, 2018) provides, in 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.

* * *

Per the letter that the Department mailed to claimant on March 30, 2022, claimant was advised to complete his registration requirements by April 14, 2022. Claimant did not do so until May 16, 2022. The order under review therefore concluded that, because claimant did not complete the registration requirements until May 16, 2022, claimant was ineligible to receive benefits for the weeks at issue. Order No. 22-UI-196266 at 4. The record does not support this conclusion.

While OAR 471-020-0021 exempts several classes of individuals from the registration requirements, the record does not show that claimant fell within any of those excepted classes of individuals. Nevertheless, the record shows that claimant was exempted from registration requirements under the Department's interpretation of its own rules. At hearing, claimant testified that his regular employer had given him an initial return to work date of May 1, 2022. Audio Record at 23:45. Based on this testimony, the Department's witness testified that claimant was considered temporarily unemployed,¹ and therefore excepted from registration requirements. Audio Record at 24:32. Although temporarily unemployed individuals do not appear to be explicitly exempted from registration requirements under the applicable administrative rules, the Department's testimony at hearing nevertheless suggests that the Department considers temporarily unemployed individuals to be exempt. This conclusion is further supported by the Department's claimant handbook, which the Department directed claimant to review when he filed his initial claim. In relevant part, the handbook states:

WorkSource Oregon Registration

You may be required to register for work in our iMatchSkills system and visit your local WorkSource Center to complete enrollment activities (the Welcome Process). After completing your claim application, you will receive a letter advising you how to register. Your benefits may be denied if not completed. *You're exempt from this requirement if you meet the requirements of being temporarily unemployed* (See Temporarily Unemployed) or are a member of a union that does not allow you to seek non-union work within your trade. You can register with WorkSource Oregon online.

Oregon Employment Department, Unemployment Insurance Claimant Handbook at 7 (emphasis added).²

In sum, the Department has explicitly stated in their handbook that temporarily unemployed individuals are exempt from the registration requirements. Further, the record shows that the Department considered claimant to be temporarily unemployed during the weeks at issue and the Department's representative testified at hearing the claimant would have been exempted from the registration requirements. Therefore, claimant was not required to complete the registration requirements, and as a result was not ineligible to receive benefits for the weeks at issue.

¹ See OAR 471-030-0036(5)(b) (March 25, 2022).

² EAB has taken notice of this fact, which is a generally cognizable fact. OAR 471-041-0090(1) (May 13, 2019). A copy of the information is available to the parties at [https://www.oregon.gov/employ/Documents/UIPUB350\(English\)11-5-19.pdf](https://www.oregon.gov/employ/Documents/UIPUB350(English)11-5-19.pdf). 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.

DECISION: Order No. 22-UI-196266 is set aside, as outlined above.

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

DATE of Service: September 27, 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.

NOTE: This decision reverses an order that denied benefits. Please note that payment of benefits, if any are owed, may take approximately a week for the Department to complete.

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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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