

**EMPLOYMENT APPEALS BOARD DECISION**  
**2022-EAB-1077**

*Affirmed*  
*Late Request for Hearing Allowed*  
*Ineligible for Mixed Earner Unemployment Compensation Weeks 53-20 through 35-21*

**PROCEDURAL HISTORY:** On September 1, 2021, the Oregon Employment Department (the Department) served a Notice of Determination for Mixed Earner Unemployment Compensation (MEUC) concluding that claimant was not eligible to receive MEUC benefits effective December 27, 2020. On September 21, 2021, the September 1, 2021 administrative decision became final without claimant having filed a request for hearing. On November 12, 2021, claimant filed a late request for hearing. ALJ Kangas considered claimant's request, and on November 23, 2021 issued Order No. 21-UI-180399, dismissing claimant's request for hearing as late, subject to claimant's right to renew the request by responding to an appellant questionnaire by December 7, 2021. On December 6, 2021, claimant filed a timely response to the appellant questionnaire. On February 23, 2022, the Office of Administrative Hearings (OAH) mailed a letter stating that Order No. 21-UI-180399 was vacated and that a new hearing would be scheduled to determine whether claimant had good cause to file the late request for hearing and, if so, the merits of the September 1, 2021 administrative decision. On October 14, 2022, ALJ Janzen conducted a hearing, and on October 18, 2022 issued Order No. 22-UI-205315, allowing claimant's late request for hearing and affirming the September 1, 2021 administrative decision by concluding that claimant was not eligible for MEUC for the weeks including December 27, 2020 through September 4, 2021 (weeks 53-20 through 35-21). On October 24, 2022, claimant filed an application for review of Order No. 22-UI-205315 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.

An assertion made in claimant's written argument is that her eligibility for MEUC benefits should have been determined based on an initial claim for regular unemployment insurance (regular UI) benefits that claimant allegedly filed in August 2020. Written Argument at 1. MEUC is governed by Section 261 of

the Continued Assistance Act,<sup>1</sup> which provides that an individual is eligible for MEUC where “the individual received at least \$5,000 of self-employment income . . . in the most recent taxable year ending prior to the individual's application for regular compensation.” The effect of this language is that an individual’s MEUC eligibility is dependent upon whether they earned self-employment income in the tax year that ended before the year their regular UI claim was filed.

At hearing, claimant testified that she was not self-employed in 2018 or 2019 and did not receive any self-employment income until 2020. Transcript at 28-29. That means that even if claimant had filed a regular UI claim in August 2020, she would not be eligible for MEUC benefits because she received no self-employment income in 2019, the taxable year ending prior to the alleged August 2020 regular UI claim. As it is, the record shows only that claimant filed an initial claim for regular UI benefits on July 3, 2019. Transcript at 27. As claimant received no self-employment income in 2018, the taxable year ending prior to the July 3, 2019 regular UI claim, claimant was not eligible to receive MEUC benefits. The order under review correctly reached this conclusion, and for that reason, this decision is adopting the order under review. *See* Order No. 22-UI-205315 at 6.

EAB reviewed the entire hearing record. On *de novo* review and pursuant to ORS 657.275(2), the order under review is **adopted**.

**DECISION:** Order No. 22-UI-205315 is affirmed.

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

**DATE of Service: January 4, 2023**

**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](https://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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<sup>1</sup> The Consolidated Appropriations Act, 2021, Division N, Title II, Subtitle A, Chapter I, Subchapter I, the Continued Assistance for Unemployed Workers Act of 2020 was signed into law on December 27, 2020.



# 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**

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**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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