

EMPLOYMENT APPEALS BOARD DECISION
2022-EAB-1214

Affirmed
Ineligible Weeks 31-22 through 33-22

PROCEDURAL HISTORY: On August 17, 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 was therefore ineligible to receive benefits for the week of July 31, 2022 through August 6, 2022 (week 31-22) and until the reason for the denial had ended. Claimant filed a timely request for hearing. On November 9, 2022, ALJ Roberts conducted a hearing, and on November 17, 2022 issued Order No. 22-UI-207545, modifying the August 17, 2022 administrative decision by concluding that claimant did not complete the registration requirements and was therefore ineligible to receive benefits from July 31, 2022 through August 20, 2022 (weeks 31-22 through 33-22). On December 6, 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 July 15, 2022, claimant filed an initial claim for benefits online. Upon completing the initial claim for benefits, the Department's online system notified claimant that she was required to complete an iMatchSkills registration and have an individual interview at a local WorkSource office. Audio Record 7:24 to 7:39. The online system also directed claimant to read the claimant handbook, which states, "You may be required to register for work in our iMatchSkills system and visit your local WorkSource Center to complete enrollment activities." Claimant Handbook at 7.¹

¹ 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.

Claimant was also advised by the system that a letter would be sent out further detailing these requirements. Audio Record 7:41 to 8:39.

(2) Claimant subsequently claimed benefits for the weeks of July 31, 2022 through August 20, 2022 (weeks 31-22 through 33-22). These are the weeks at issue and the Department did not pay benefits on these claims.

(3) In July 2022, claimant set up “Informed Delivery,” a service that allowed her to see electronic images of the exterior of envelopes mailed to her, but not view the contents of the mail. Claimant previously had mail stolen and set up Informed Delivery to determine if she was missing any of her mail. Claimant did not regularly check Informed Delivery to determine what had been sent to her, however she noticed images of envelopes sent by the Department around July and August 2022.

(4) On July 18, 2022, the Department mailed claimant a letter to the address given to them by claimant. This letter was not returned to the Department marked as undeliverable. The letter directed claimant to complete the iMatchSkills registration, as well as the Welcome Process interview at a local WorkSource office. The letter also listed August 1, 2022, as the deadline to complete these steps, and stated that benefits would be denied if these steps were not completed. Claimant does not recall receiving this letter.

(5) Claimant did not complete the registration requirements by August 1, 2022.

(6) On August 8, 2022, the Department mailed a suspension letter to claimant. This letter stated that no benefits were paid because of claimant’s failure to complete the registration requirements. Claimant does not recall receiving this letter.

(7) On August 15, 2022, the Department mailed a second suspension letter. This letter stated that no benefits were paid because of claimant’s failure to complete the registration requirements.

(8) On August 17, 2022, claimant called the Department to determine why no payment was made on her claim. Claimant completed the iMatchSkills registration on this day.

(9) On August 22, 2022, claimant completed the welcome process interview.

CONCLUSION AND REASONS: Claimant did not complete registration requirements until August 22, 2022 and therefore was ineligible to receive benefits from July 31, 2022 until August 20, 2022 (weeks 31-22 through 33-22).

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 471-030-0035 (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.

* * *

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.

Because the Department did not pay claimant benefits for the weeks at issue, it was claimant’s burden to show that she was 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). Claimant did not meet that burden.

The record shows that claimant did not complete the registration requirements until August 22, 2022. At hearing, claimant and the Department’s representative disagreed about the date that claimant completed the iMatchSkills registration, but both agreed that claimant did not complete the Welcome Process WorkSource interview until August 22, 2022. Audio Record 11:29 to 11:40, Audio Record at 23:04 to 23:30. In her written argument and at hearing, claimant argued that she never received notification of these requirements. Claimant’s Written Argument at 1. However, the record shows that when filing her initial claim, the online claim system notified claimant that she would need to complete these requirements. Further, claimant was directed to read the claimant handbook. Claimant did not recall reading the handbook, but testified that if it was online she would have read it. Audio Record 14:58 to 15:10. The claimant handbook is available online, and in pertinent part states, “You may be required to register for work in our iMatchSkills system and visit your local WorkSource Center to complete enrollment activities.”² Claimant Handbook at 7.

The record shows that the Department also mailed claimant a letter detailing the registration and interview requirements on July 18, 2022. Claimant testified that she never received the July 18, 2022 letter, but she did see images of envelopes the Department had mailed to her around this time using Informed Delivery. Audio Record at 16:39 to 17:02. She was also informed during the filing of her initial claim that the Department would be sending her a letter detailing how to complete the additional

² While the handbook only says that you *may* be required, it does proceed to detail the scenarios where a claimant is exempt from this requirement. Neither of these scenarios apply to claimant.

requirements. Despite this, she did not contact the Department to inquire about the letter or these requirements until August 17, 2022, and did not complete the WorkSource interview until August 22, 2022. There is no good cause exception for failure to complete the registration requirements. Therefore, because claimant was informed of the registration and interview requirements due by August 1, 2022, and did not complete them until August 22, 2022, claimant is not eligible for benefits from July 31, 2022 through August 20, 2022 (weeks 31-22 through 33-22).

DECISION: Order No. 22-UI-207545 is affirmed.

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

DATE of Service: February 7, 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. 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 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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