

EMPLOYMENT APPEALS BOARD DECISION
2023-EAB-0372

Affirmed
PUA Eligible Week 13-20
PUA Ineligible Weeks 14-20 through 29-20

PROCEDURAL HISTORY: On September 22, 2021, the Oregon Employment Department (the Department) served a Notice of Determination for Pandemic Unemployment Assistance (PUA) concluding that claimant was not entitled to PUA benefits effective March 8, 2020. Claimant filed a timely request for hearing. On March 8, 2023, ALJ Lucas conducted a hearing, and on March 13, 2023 issued Order No. 23-UI-218835, modifying the Notice of Determination for PUA by concluding that claimant was eligible for PUA for the week of March 22, 2020 through March 28, 2020 (week 13-20) and ineligible for PUA for the weeks of March 29, 2020 through July 18, 2020 (weeks 14-20 through 29-20). On March 29, 2023, claimant filed an application for review with the Employment Appeals Board (EAB).

WRITTEN ARGUMENT: EAB considered claimant's written arguments in reaching this decision. Claimant's arguments and hearing testimony largely centered around claimant's confusion caused by the sequence in which administrative decisions and subsequent appeals from them were issued by the Department and addressed on appeal by the Office of Administrative Hearings (OAH).

The first administrative decision relevant to claimant's PUA claim is the one now under review, issued September 22, 2021, concluding that claimant was ineligible for PUA benefits because he was instead eligible for and received regular unemployment insurance (UI) benefits for the same weeks. Ideally, claimant's appeal of this decision would have been heard by OAH before any other action was taken by the Department regarding his PUA claim. However, the Department issued another administrative decision, based in part on the September 22, 2021 Notice of Determination for PUA, that he had been overpaid PUA benefits, before a hearing on his appeal had been scheduled. This understandably caused claimant confusion, since his appeal on the issue of whether or not he had been entitled to PUA benefits had not yet been heard and, accordingly, the September 22, 2021 Notice of Determination for PUA had not yet become final. Claimant appealed the administrative decision that concluded that he had been overpaid PUA benefits, and requested a waiver of that overpayment.

Adding to claimant's confusion, the Department next granted a waiver of the alleged PUA overpayment before a hearing could be held on claimant's appeals of either the September 22, 2021 Notice of Determination for PUA (concluding that he was ineligible for PUA) or the second administrative decision concluding that he had been overpaid PUA benefits.

Because the waiver of overpayment was granted, claimant's appeal of the administrative decision concluding that he had been overpaid PUA benefits was moot and was dismissed without a hearing, since claimant was no longer required to repay the PUA benefits. These decisions were fully favorable to claimant.

These events, for all practical purposes, favorably resolved nearly all outstanding issues regarding claimant's PUA claim that could still affect him. Nonetheless, claimant was entitled to the hearing he had requested on October 7, 2021 to determine the merits of the September 22, 2021 Notice of Determination for PUA – that is, whether claimant had been eligible for PUA in the first place. Claimant apparently misinterpreted the purpose of this hearing and the resulting order under review as potentially reversing or modifying the final decisions that had separately been made regarding the PUA overpayment and granting the waiver of that overpayment. Those decisions were not before OAH or EAB in the present appeal. The hearing and order under review only addressed the issue of whether claimant had been eligible to receive PUA.

In sum, claimant should note that EAB's decision, and Order No. 23-UI-218835, which it affirms, do not affect the validity of the final orders and decisions made regarding the waiver of overpaid PUA benefits. **The waiver of claimant's PUA overpayment remains in effect, pursuant to the final administrative decision granting it, and that decision was not subject to EAB review in this matter.**

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. 23-UI-218835 is affirmed.

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

DATE of Service: May 9, 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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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 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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