

EMPLOYMENT APPEALS BOARD DECISION
2023-EAB-0615

Affirmed
Late Request for Hearing Allowed
Ineligible for Pandemic Unemployment Assistance Weeks 50-20 through 35-21

PROCEDURAL HISTORY: On April 13, 2022, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant failed to provide information in accordance with the Department's rules and therefore was ineligible to receive benefits for the weeks including December 6, 2020 through September 4, 2021 (weeks 50-20 through 35-21) and until the reason for the denial had ended (decision # 586927). On May 3, 2022, decision # 586927 became final without claimant having filed a request for hearing. On June 17, 2022, claimant filed a late request for hearing on decision # 586927. ALJ Kangas considered claimant's request, and on September 16, 2022 issued Order No. 22-UI-202861, dismissing claimant's request for hearing as late, subject to claimant's right to renew the request by responding to an appellant questionnaire by September 30, 2022. On September 28, 2022, claimant filed a timely response to the appellant questionnaire. On February 15, 2023, the Office of Administrative Hearings (OAH) mailed a letter stating that Order No. 22-UI-202861 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 decision # 586927. On May 11, 2023, ALJ Janzen conducted a hearing, and on May 12, 2023, issued Order No. 23-UI-224794, allowing the request for hearing as late, but with good cause, and affirming decision # 586927 by concluding that claimant was ineligible to receive benefits for weeks 50-20 through 35-21. On May 30, 2023, claimant filed an application for review of Order No. 23-UI-224794 with the Employment Appeals Board (EAB).

WRITTEN ARGUMENT: Claimant submitted written arguments on May 30, 2023, May 31, 2023, and June 26, 2023. Claimant's arguments 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 arguments to the extent they were based on the record.

Based on a *de novo* review of the entire record in this case, and pursuant to ORS 657.275(2), the portion of the order under review allowing claimant's late request for hearing is **adopted**. The remainder of this decision concerns the failure to provide information issue.

FINDINGS OF FACT: (1) On May 5, 2021, claimant filed an initial claim for Pandemic Unemployment Assistance (PUA) benefits. When the Department processed claimant's initial claim, the Social Security number claimant provided did not match information in the Department's records.

(2) In August 2021, the Department sent claimant an email requesting a copy of her Social Security card and a copy of a picture identification card with her birth date included in order to verify her identity. On August 22, 2021, claimant sent the Department copies of her birth certificate and a state-issued picture identification card. However, claimant did not provide the Department with a copy of her Social Security card.

(3) The Department's August 2021 email stated that, in lieu of submitting copies of her Social Security card itself, claimant could submit a copy of a letter from the Social Security Administration with her Social Security number included. On August 23, 2021, claimant sent the Department a filled out Social Security Administration application form for a replacement card. However, the application form was not a letter from the Social Security Administration with claimant's Social Security number included.

(4) On January 14, 2022, the Department sent claimant a letter to her address of record again requesting claimant to verify her Social Security number by providing a copy of her Social Security card. The letter requested claimant provide the copy of the card within five calendar days of the date the letter was mailed, January 19, 2022. Claimant did not provide a copy of her Social Security card by that date or at any point in time thereafter.

(5) Claimant claimed benefits for the weeks including December 6, 2020 through September 4, 2021 (weeks 50-20 through 35-21). These are the weeks at issue. The Department did not pay claimant benefits for the weeks at issue.

CONCLUSIONS AND REASONS: Claimant failed to provide information in accordance with the Department's rules and is not eligible to receive benefits for the weeks at issue.

Section 2102(f)(1) of the CARES Act, as amended by Section 242(a) of the Continued Assistance for Unemployed Workers Act of 2020 ("CAA"), requires states to have an adequate system for administering the PUA program "including procedures for identity verification or validation . . . to the extent reasonable and practicable." 15 U.S.C. § 9021(f)(1). Individuals filing new PUA initial claims after January 26, 2021 and who "have not been through the state's identity verification process must have their identities verified to be eligible." U.S. Dep't of Labor, Unemployment Insurance Program Letter No. 16-20, Change 4 (January 8, 2021).

Under ORS 657.155(1)(b), in order to be eligible to receive benefits with respect to any week, an individual must make "a claim for benefits with respect to such week in accordance with ORS 657.260." ORS 657.260(1) provides that claims for benefits shall be filed in accordance with such regulations as the Department may prescribe. OAR 471-030-0025 (January 11, 2018) states:

- (1) With all claims, an individual shall furnish the Director with . . . information required for processing their claim. * * *

- (2) The claimant is required to furnish such information required for processing their claim within the time frame provided by the Director or an authorized representative of the Employment Department. Unless the time frame is otherwise defined under Employment Department statute or rule, or is specifically directed otherwise by an authorized representative of the Employment Department, the claimant is required to respond to all requests for information within the following time frames:
 - (a) For requests for information by letter mailed to the address of record, the claimant shall have five (5) calendar days to respond from the date the letter was mailed. When responding by mail, the date of the response shall be the date of the postmark affixed by the United States Postal Service. In the absence of a postmarked date, the date of the response shall be the most probable date of mailing as determined by the Employment Department.

* * *

To be eligible to receive PUA benefits, federal law requires that a claimant's identity be verified. Here, claimant submitted a Social Security number with her initial claim for benefits that did not match information in the Department's records. In August 2021, in an effort to verify claimant's identity, the Department requested a copy of claimant's Social Security card or a letter from the Social Security Administration with her Social Security number included. Claimant failed to provide the information requested.

On January 14, 2022, the Department again requested a copy of claimant's Social Security card, and asked that she provide it by January 19, 2022. Claimant did not provide the requested information on that date or at any point in time thereafter. Thus, claimant failed to furnish information required for processing her claim as required under ORS 657.260(1) and OAR 471-030-0025. Because claimant's claims for benefits for the weeks at issue were not made in accordance with ORS 657.260, per ORS 657.155(1)(b), claimant is not eligible to receive benefits for the weeks at issue.

For these reasons, claimant failed to provide information in accordance with the Department's rules and is not eligible to receive PUA benefits for the weeks including December 6, 2020 through September 4, 2021 (weeks 50-20 through 35-21).

DECISION: Order No. 23-UI-224794 is affirmed.

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

DATE of Service: July 6, 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

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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