

EMPLOYMENT APPEALS BOARD DECISION
2023-EAB-1213-R

Requests for Reconsideration Allowed
EAB Decisions 2023-EAB-1214 and 2023-EAB-1213 Adhered to on Reconsideration

PROCEDURAL HISTORY: On August 9, 2023, 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 ineligible for benefits for the week of July 23 through 29, 2023 and until the reason for the denial ended. On August 10, 2023, the Department served notice of an administrative decision concluding that claimant failed to provide identification verification documentation in accordance with the Department’s rules and was ineligible for benefits for the weeks from July 23 through August 5, 2023 and until the reason for the denial ended (decision #132058).

Claimant filed timely requests for hearing on both administrative decisions. On October 3, 2023, ALJ Monroe conducted a hearing, and on October 11 and 12, 2023 issued Orders No. 23-UI-238357 and 23-UI-238371, modifying decision #132058 and the August 9, 2023 administrative decision by concluding that claimant was not eligible for benefits the weeks of July 23 through August 12, 2023. On October 27, 2023, claimant filed applications for review of Orders No. 23-UI-238371 and 23-UI-238357 with the Employment Appeals Board (EAB). EAB consolidated its review of Orders No. 23-UI-238371 and 23-UI-238357. On December 13, 2023, EAB issued EAB Decisions 2023-EAB-1214 and 2023-EAB-1213, affirming Orders No. 23-UI-238371 and 23-UI-238357 by adopting their findings of fact and conclusions of law.

On December 14, 2023, claimant filed timely requests for reconsideration of EAB Decisions 2023-EAB-1214 and 2023-EAB-1213. This consolidated decision is issued pursuant to EAB’s authority under ORS 657.290(3). For case-tracking purposes, this decision is being issued in duplicate (EAB Decisions 2023-EAB-1214-R and 2023-EAB-1213-R).

CONCLUSIONS AND REASONS: Claimant’s requests for reconsideration are allowed. EAB Decisions 2023-EAB-1214 and 2023-EAB-1213 are adhered to on reconsideration.

ORS 657.290(3) authorizes the Employment Appeals Board to reconsider any previous decision of the Employment Appeals Board, including “the making of a new decision to the extent necessary and appropriate for the correction of previous error of fact or law.” “Any party may request reconsideration

to correct an error of material fact or law, or to explain any unexplained inconsistency with Employment Department rule, or officially stated Employment Department position, or prior Employment Department practice.” OAR 471-041-0145(1) (May 13, 2019). The request is subject to dismissal unless it includes a statement that a copy was provided to the other parties, and is filed on or before the 20th day after the decision sought to be reconsidered was mailed. OAR 471-041-0145(2).

Claimant filed his requests for reconsideration consistent with the requirements set forth in OAR 471-041-0145. The requests for reconsideration therefore are allowed. However, EAB Decisions 2023-EAB-1214 and 2023-EAB-1213 are adhered to on reconsideration.

In claimant’s reconsideration request, he stated as follows:

This argument is submitted for unemployment benefits that were denied for the weeks of July 23, 2023- August 5, 2023. Other weeks were paid. Benefits were denied by Decision 132-058 and appealed with 23-UI-238357 and 23-238371. This argument is a request for review of Decision 132-058. This review and appeals process becomes more confusing and letters are sent in legal terms and not understandable language. Additionally, a review from the full board. A review/appeal completed by 2 of the 3 is not complete. Decision 132-058 is for denial of benefits for the weeks of July 23-August 5. The reason for denial was a failure to appear in an unemployment office to provide ID. ID was believed by me provided through the secure access portal on Oregon Unemployment's website by providing SSN, creating a PIN and using personal data. I was unaware an in-person requirement was necessary until benefits were no longer being paid. When benefits were no longer paid a phone call was made to the Unemployment office where I learned of the requirement for in-person verification. That day, I appeared at the Oregon City Unemployment office. The letters that the office sent appeared to be duplicates of the numerous letters stating the processing of my claim and therefore not carefully read. During Co-Vid, in-person visits for verification were not required. This was the only familiarity I had with the process. Initial claims were filed and paid I was under the belief that all verification requirements were made and no further action was necessary. The belief that an in-person visit was not required and the many weeks processed and the fact that benefits were paid initially to me from the Unemployment office led me to believe my benefits would be paid as processed weekly. Numerous confusing letters were received during the claims period. Letters indicating the payments were being processed, the ReliaCard process and the reporting process are confusing.

Reconsideration Request at 1.

The assertions made in claimant’s reconsideration request relating to being confused by and not carefully reading the Department’s letters advising of the identity verification and work registration requirements and initially believing, in error, that an in-person visit to a WorkSource office was not necessary to satisfy these requirements based on his wife’s experience claiming benefits during the COVID-19 pandemic when in-person visits were suspended, reflect testimony claimant offered at hearing. Audio Record at 19:30 to 34:09. The assertions were included in the factual findings contained in Orders No. 23-UI-238371 and 23-UI-238357, which EAB Decisions 2023-EAB-1214 and 2023-EAB-1213 adopted. *See* Order No. 23-UI-238371 at 2; Order No. 23-UI-238357 at 2. EAB reviewed

claimant's testimony and considered it alongside the Department's evidence during its review of the entire record in these consolidated cases and its consideration of the findings of fact and conclusions of law contained in Orders No. 23-UI-238371 and 23-UI-238357.

As Orders No. 23-UI-238371 and 23-UI-238357 concluded, which conclusions EAB Decisions 2023-EAB-1214 and 2023-EAB-1213 adopted, while claimant's initial failure to realize he was required to make an in-person visit to a WorkSource office was regrettable, the applicable law does not permit an exception to be made for claimant because of his mistake. *See* Order No. 23-UI-238371 at 3; Order No. 23-UI-238357 at 3-4. Therefore, these aspects of claimant's reconsideration request do not show that modifying EAB Decisions 2023-EAB-1214 or 2023-EAB-1213 is warranted to correct any error of material fact or law, or to explain any unexplained inconsistency with Employment Department rule, or officially stated Employment Department position, or prior Employment Department practice.

With respect to claimant's statement, "Additionally, a review from the full board. A review/appeal completed by 2 of the 3 is not complete," claimant's assertion that review by two members of EAB, rather than three, is incomplete is not correct. Reconsideration Request at 1. EAB Decisions 2023-EAB-1214 and 2023-EAB-1213 were decided by two members rather than three because, under ORS 657.685(3), a majority of EAB constitutes a quorum and per OAR 471-041-0095 (effective October 29, 2006), "Cases are considered in panels of two or three EAB members." Therefore, this aspect of claimant's reconsideration request also does not show that modifying EAB Decisions 2023-EAB-1214 or 2023-EAB-1213 is warranted to correct any error of material fact or law, or to explain any unexplained inconsistency with Employment Department rule, or officially stated Employment Department position, or prior Employment Department practice.

For the foregoing reasons, EAB Decisions 2023-EAB-1214 and 2023-EAB-1213 are adhered to on reconsideration.

DECISION: Claimant's requests for reconsideration are allowed. EAB Decisions 2023-EAB-1214 and 2023-EAB-1213 are adhered to on reconsideration.

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

DATE of Service: January 19, 2024

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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