

EMPLOYMENT APPEALS BOARD DECISION
2023-EAB-1307

Affirmed
Late Request for Hearing Allowed,
Ineligible for Pandemic Unemployment Assistance
Overpayment and Penalties

PROCEDURAL HISTORY: On September 27, 2022, 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 February 2, 2020. On October 14, 2022, the Department served notice of an administrative decision based in part on the September 27, 2022, PUA determination, concluding that claimant willfully made a misrepresentation and failed to report a material fact to obtain benefits, and assessing an overpayment of \$15,170 in PUA and \$20,400 in Federal Pandemic Unemployment Compensation (FPUC) benefits that claimant was required to repay, and a \$5,335.50 monetary penalty. On October 17, 2022, the September 27, 2022, PUA determination became final without claimant having filed a request for hearing.

On November 3, 2022, claimant filed a late request for hearing on the September 27, 2022, PUA determination and a timely request for hearing on the October 14, 2022, overpayment decision. On November 9, 2023, ALJ Wardlow conducted hearings regarding both administrative decisions. On November 15, 2023, ALJ Wardlow issued Order No. 23-UI-241210, allowing claimant's late request for hearing on the September 27, 2022, PUA determination and affirming that decision by concluding that claimant was not eligible for PUA benefits from March 8, 2020, through August 28, 2021 (weeks 11-20 through 34-21). On November 17, 2023, ALJ Wardlow issued Order No. 23-UI-241441, affirming the October 14, 2022, overpayment decision.¹ On December 1, 2023, claimant filed applications for review of Orders No. 23-UI-241210 and 23-UI-241441 with the Employment Appeals Board (EAB).

¹ Order No. 23-UI-241441 did not explicitly conclude that claimant remained liable for the \$5,335.50 monetary penalty assessed by the October 14, 2022, overpayment decision. However, the issue of the monetary penalty was fully addressed at hearing. Transcript at 47-48. Further, the order's findings of fact found that claimant had been assessed the monetary penalty, stated that the October 14, 2022, overpayment decision was affirmed, and did not conclude that claimant should not be liable for the monetary penalty. Order No. 23-UI-241441 at 3, 7. As such, the omission of the monetary penalty from the order's conclusion is presumed to be scrivener's error, and its assessment stands.

Pursuant to OAR 471-041-0095 (October 29, 2006), EAB consolidated its review of Orders No. 23-UI-241210 and 23-UI-241441. For case-tracking purposes, this decision is being issued in duplicate (EAB Decisions 2023-EAB-1308 and 2023-EAB-1307).

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

DECISION: Orders No. 23-UI-241210 and 23-UI-241441 are affirmed.

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

DATE of Service: January 11, 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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