

**EMPLOYMENT APPEALS BOARD DECISION**  
**2023-EAB-1351**

*Order No. 23-UI-243404 – Affirmed – Not Eligible for PUA Weeks 11-20 through 35-21*  
*Order No. 23-UI-243542 - Modified – Overpayment Reduced*

**PROCEDURAL HISTORY:** On January 4, 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. On January 24, 2022, the January 4, 2022, PUA determination became final without claimant having filed a request for hearing. On January 14, 2022, the Department served notice of an administrative decision concluding that claimant willfully made misrepresentations and failed to report material facts to obtain benefits, and assessing an overpayment of \$8,610 in Pandemic Unemployment Assistance (PUA) benefits and \$10,800 in Federal Pandemic Unemployment Compensation (FPUC) benefits that claimant was required to repay to the Department, and a \$2,911.50 monetary penalty. On January 25, 2022, claimant filed a late request for hearing on the January 4, 2022, PUA determination and a timely request for hearing on the January 14, 2022, administrative decision. On December 12, 2023, ALJ Adamson conducted a consolidated hearing on the January 4, 2022, PUA determination and the January 14, 2022, administrative decision. On December 13, 2023, ALJ Adamson issued Order No. 23-UI-243404 allowing claimant's late request for hearing on the January 4, 2022, PUA determination and affirming the PUA determination. On December 15, 2023, ALJ Adamson issued Order No. 23-UI-243542, modifying the January 14, 2022, administrative decision by concluding that claimant did not willfully make false statements to obtain benefits and was not liable for a monetary penalty, but did receive \$8,610 in PUA benefits and \$10,800 in FPUC benefits to which she was not entitled and was required to repay to the Department. On December 18, 2023, claimant filed applications for review of Orders No. 23-UI-243404 and 23-UI-243542 with the Employment Appeals Board (EAB).

Pursuant to OAR 471-041-0095 (October 29, 2006), EAB consolidated its review of Orders No. 23-UI-243404 and 23-UI-243542. For case-tracking purposes, this decision is being issued in duplicate (EAB Decisions 2023-EAB-1350 and 2023-EAB-1351).

Based on a *de novo* review of the entire record in these consolidated cases, and pursuant to ORS 657.275(2), the portion of Order No. 23-UI-243404 allowing claimant's late request for hearing on the January 4, 2022, PUA determination, and the portion of Order No. 23-UI-243542 concluding that claimant did not make a willful misrepresentation and is not liable for a monetary penalty are **adopted**.

The remainder of this decision addresses claimant's eligibility for PUA benefits and liability for the overpayment of benefits for the weeks at issue.

**FINDINGS OF FACT:** (1) Claimant was a retired senior. Beginning at least as early as 2019 and continuing throughout the period relevant to this decision, claimant received monthly Social Security benefits. Also, for several years prior to March 2020, claimant earned some income by providing housesitting and pet-sitting services for individuals who were taking vacations. Transcript at 24.

(2) Claimant's Social Security benefits were her primary source of income. Claimant used the income she received through housesitting and pet-sitting "just to make ends meet." Transcript at 24. Claimant did not report any of her income from housesitting and pet-sitting on her 2019 or 2020 tax returns because she viewed her income from those activities as "sort of negligible." Transcript at 33. Claimant did not register her housesitting and pet-sitting services as a business entity with the Oregon Secretary of State. Claimant did not advertise her services and did not create a website or any social media account to market her housesitting and pet-sitting services. Claimant house and pet sat for a few friends and other individuals who became customers through word of mouth.

(3) In March 2020, claimant arranged to house-sit and pet-sit for a friend who lived in Hawaii. On March 11, 2020, claimant flew to her friend's home in Hawaii. At about the same time, restrictions related to the COVID-19 pandemic began impacting the availability of return flights, and claimant was concerned she might be required to stay in Hawaii for an extended period due to potential shelter-in-place requirements. On March 15, 2020, claimant cut short the housesitting and pet-sitting for her friend and returned to Oregon.

(4) Upon returning home, claimant found that "nobody was traveling" and she did not have any further opportunities to housesit or pet-sit. Transcript at 26. Claimant had had "regular . . . situations" housesitting and pet-sitting for the friend in Hawaii, a married couple, and two other individuals. Transcript at 26. Claimant's friend in Hawaii eventually moved to the U.S. mainland and no longer needed claimant's services. The married couple later divorced and no longer needed claimant's services. The third individual claimant had housesat and pet-sat for eventually had a young person move in, who took over housesitting and pet-sitting for that individual when needed. The fourth individual claimant housesat and pet-sat for eventually died.

(5) On November 28, 2020, claimant filed an initial application for PUA benefits with the Department. On her initial application for PUA benefits, claimant reported that she was a self-employed individual who experienced a reduction in services due to having to cut short the housesitting and pet-sitting for the friend in Hawaii. Exhibit 1 at 17, 19-20. Claimant claimed PUA benefits for the weeks from November 15, 2020, through September 4, 2021 (weeks 47-20 through 35-21).

(6) The Department paid claimant \$205 of PUA benefits for each of weeks 47-20 through 35-21 for a total of \$8,610 of PUA benefits. The Department paid claimant \$300 of FPUC benefits each of weeks 53-20 through 35-21 for a total of \$10,800 of FPUC benefits.

(7) Each of the payments the Department made to claimant for weeks 47-20 through 49-20 and weeks 51-20 through 01-21 were made on or before January 11, 2021.<sup>1</sup> The Department paid claimant for week 50-20 and also for weeks 02-21 through 35-21 on or after January 19, 2021.<sup>2</sup>

(8) When claimant claimed PUA benefits for week 35-21, she learned that she could also claim weeks of PUA benefits from before week 47-20. Claimant then claimed PUA benefits for the weeks of March 8, 2020, through November 14, 2020 (weeks 11-20 through 46-20). The Department did not pay claimant benefits for these weeks.

(9) The weeks at issue in this case consist of weeks 11-20 through 46-20, for which the Department did not pay benefits, and weeks 47-20 through 35-21, for which the Department did pay benefits. Claimant was not eligible for regular unemployment insurance (regular UI), extended benefits, or pandemic emergency unemployment compensation (PEUC) during the weeks at issue.

(10) After claimant claimed PUA benefits for weeks 11-20 through 46-20, the Department began investigating claimant's eligibility to receive PUA benefits. Following an investigation, on January 4, 2022, the Department issued the January 4, 2022, PUA determination, which concluded that claimant was not entitled to receive PUA benefits. On January 14, 2022, the Department issued the January 14, 2022, administrative decision, assessing overpayments for the PUA benefits claimant received for weeks 47-20 through 35-21 and the FPUC benefits claimant received for weeks 53-20 through 35-21 that claimant was liable to repay, as well as a monetary penalty.

**CONCLUSIONS AND REASONS:** Order No. 23-UI-243404 is affirmed. Claimant was not eligible for PUA benefits for the weeks at issue. Order No. 23-UI-243542 is modified. Claimant was overpaid PUA benefits for weeks 47-20 through 35-21 and FPUC benefits for weeks 53-20 through 35-21. However, as to weeks 47-20 through 49-20 and weeks 51-20 through 01-21, the Department was not authorized to amend the original decisions allowing payment of benefits for those weeks, and claimant therefore is not liable for the overpayment as to those weeks. For the weeks of 50-20 and 02-21 through 35-21, claimant is liable for an overpayment of \$7,175 in PUA benefits and \$10,200 in FPUC benefits to be recovered in accordance with the same procedures as apply to recovery of regular UI overpayments.

**Order No. 23-UI-243404 – PUA Eligibility.** To be eligible for PUA benefits, an individual must be a “covered individual” as that term is defined by the CARES Act, as amended. 15 U.S.C. § 9021(b). In pertinent part, a “covered individual” is an individual who (1) “is not eligible for regular compensation or extended benefits . . . or pandemic emergency unemployment compensation” and (2) self-certifies that they are either “otherwise able to work and available to work within the meaning of applicable State

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<sup>1</sup> EAB has taken notice of this fact, which is contained in Employment Department records. OAR 471-041-0090(1) (May 13, 2019). 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.

<sup>2</sup> EAB has taken notice of this fact, which is contained in Employment Department records. OAR 471-041-0090(1) (May 13, 2019). 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.

law, except the individual is unemployed, partially unemployed, or unable or unavailable to work because” of one of eleven reasons related to the COVID-19 pandemic, or “is self-employed, is seeking part-time employment, does not have sufficient work history, or otherwise would not qualify for regular unemployment” and is rendered unemployed because of one of the eleven listed reasons. 15 U.S.C. § 9021(a)(3)(A)(i)-(ii).

One of the eleven enumerated COVID-19 related reasons is that “the individual meets any additional criteria established by the [United States] Secretary [of Labor] for unemployment assistance under this section.” 15 U.S.C. § 9021(a)(3)(A)(ii)(I)(kk). A circumstance approved via the Secretary’s item (kk) authority is for “self-employed individuals who experienced a significant diminution of services because of the COVID-19 public health emergency.” U.S. Dep’t of Labor, Unemployment Insurance Program Letter No. 16-20, Change 2 (July 21, 2020) at 2. This is the COVID-19 qualifying reason potentially applicable to claimant’s circumstances. Regulations at 20 C.F.R. part 625, which pertain to the Disaster Unemployment Assistance program, apply to the PUA program, unless otherwise provided or contrary to the Act. 15 U.S.C. § 9021(h). 20 C.F.R. Section 625.2(n) defines “self-employed individual” as “an individual whose primary reliance for income is on the performance of services in the individual’s own business, or on the individual’s own farm.”

Claimant was not a “covered individual” entitled to PUA benefits during the weeks at issue. Although claimant met the first element of PUA eligibility because she was not eligible for regular UI, extended benefits, or PEUC during the weeks at issue, she nevertheless did not constitute a “covered individual” because her circumstances did not satisfy any of the COVID-19 qualifying reasons enumerated under 15 U.S.C. § 9021(a)(3)(A)(ii)(I). Specifically, as to 15 U.S.C. § 9021(a)(3)(A)(ii)(I)(kk), because claimant did not meet the 20 C.F.R. Section 625.2(n) definition of a “self-employed individual”, the record fails to show that claimant was a self-employed individual who experienced a significant diminution of services because of the COVID-19 public health emergency.

Claimant’s housesitting and pet-sitting activities did not meet the definition of “self-employed individual” set forth by 20 C.F.R. Section 625.2(n). First, claimant’s primary reliance for income was not on her housesitting and pet-sitting activities. At hearing, claimant repeatedly testified that her primary source of income was her monthly Social Security payments. Transcript at 24, 33. Claimant further testified that the income from her housesitting and pet-sitting activities merely helped her make ends meet and, in 2019 and 2020, the amounts she earned from housesitting and pet-sitting were “sort of negligible.” Transcript at 24, 33. Because claimant’s Social Security benefits were her primary source of income, her primary reliance for income was not on her housesitting and pet-sitting activities as required to be a “self-employed individual” under C.F.R. Section 625.2(n).

Further, the record fails to show that the housesitting and pet-sitting activities were services that claimant performed in the context of her “own business” or her “own farm” per 20 C.F.R. Section 625.2(n). Claimant did not provide the housesitting and pet-sitting services in connection with any farm that she owned. In addition, claimant’s housesitting and pet-sitting activities lacked the characteristics of a business. First, claimant’s housesitting and pet-sitting activities were not registered as a business entity with the Oregon Secretary of State. While a business could provide housesitting and pet-sitting services as a sole proprietorship, one would typically expect a business that offered such services to be organized as a business entity, such as a limited liability company. Further, a housesitting and pet-sitting business typically would report its income from performing those services to state and federal tax authorities.

However, claimant did not report any of her income from housesitting and pet-sitting on her 2019 or 2020 tax returns.

Finally, claimant gained the four customers for whom she housesat and pet-sat through word of mouth. While word of mouth is certainly one method businesses use to gain customers, a business often will also engage in active marketing efforts beyond word of mouth to obtain customers. Here, claimant did not market her activities or engage in any advertising. Furthermore, a business concern will usually transact business with its customers at arm's length, meaning the transactions occur between two unaffiliated parties each acting in their own self-interest. Claimant described one of the individuals for whom she housesat and pet-sat—the individual who lived in Hawaii—as her “friend,” which raises some doubt that the transactions between claimant and that person were arm's length transactions. Transcript at 25. While no single one of the points raised above is dispositive, when considered collectively, they support the conclusion that the record fails to show that claimant's activities constituted the performance of services in her “own business.”

Thus, because claimant's primary reliance for income was not on the performance of her housesitting and pet-sitting services, and because those services were not performed in the context of claimant's “own business” or “own farm”, claimant was not a “self-employed individual” within the meaning of 20 C.F.R. Section 625.2(n). Claimant therefore did not establish that she was a self-employed individual who experienced a significant diminution of services because of the COVID-19 public health emergency per 15 U.S.C. § 9021(a)(3)(A)(ii)(I)(kk) and federal guidance. Because claimant did not meet 15 U.S.C. § 9021(a)(3)(A)(ii)(I)(kk), she was not a “covered individual” within the meaning of the CARES Act, and therefore was not eligible to receive PUA benefits for the weeks at issue.

**Order No. 23-UI-243542 – Lack of Authority to Amend Claims.** ORS 657.267, with emphasis added, provides as follows:

(1) *An authorized representative shall promptly examine each claim* for waiting week credit or for benefits *and, on the basis of the facts available, make a decision to allow or deny the claim.* Information furnished by the claimant, the employer or the employer's agents on forms provided by the Employment Department pursuant to the authorized representative's examination must be accompanied by a signed statement that such information is true and correct to the best of the individual's knowledge. *Notice of the decision need not be given to the claimant if the claim is allowed* but, if the claim is denied, written notice must be given to the claimant. If the claim is denied, the written notice must include a statement of the reasons for denial, and if the claim is denied under any provision of ORS 657.176, the notice must also set forth the specific material facts obtained from the employer and the employer's agents that are used by the authorized representative to support the reasons of the denial. The written notice must state the reasons for the decision.

(2) If the claim is denied under any provision of ORS 657.176, written notice of the decision must be given to the employing unit, or to the agent of the employing unit, that, in the opinion of the Director of the Employment Department, is most directly involved with the facts and circumstances relating to the disqualification.

(3) Notice of a decision that was wholly or partially based on information filed with the director in writing within 10 days after the notice provided for in ORS 657.265 must be given to any employing unit or agent of the employing unit that filed the information.

**(4) *If a decision to allow payment made pursuant to this section does not require notice, that decision may be amended by an authorized representative.*** The amendment must be made by written notice informing the recipient of the right of appeal pursuant to ORS 657.269. ***The amendment must be issued within one year of the original decision to allow payment, except in cases of alleged willful misrepresentation or fraud.*** A decision requiring notice, made pursuant to this section, may be amended unless it has become a final decision under ORS 657.269.

Order No. 23-UI-243542 concluded that for weeks 47-20 through 35-21, claimant was overpaid \$8,610 in PUA benefits and \$10,800 in FPUC benefits that she was required to repay the Department. Order No. 23-UI-243542 at 2, 8. While the record shows that claimant was overpaid benefits in these amounts over the course of those weeks, the Department was not authorized to amend the original decisions allowing payment of benefits for weeks 47-20 through 49-20 and weeks 51-20 through 01-21 because they were paid on or before January 11, 2021, which was more than a year before the January 14, 2022 administrative decision was issued.

The Department made its original decisions under ORS 657.267(1) to allow the payment of PUA and FPUC benefits for weeks 47-20 through 49-20 and weeks 51-20 through 01-21 by paying each of those claims on or before January 11, 2021. Pursuant to ORS 657.267(4), except in cases of willful misrepresentation or fraud, the Department had one year from that date to amend the decisions to allow benefits.

On January 14, 2022, the Department issued the January 14, 2022, administrative decision, concluding that claimant was not entitled to the PUA benefits she received for weeks 47-20 through 35-21 and the FPUC benefits claimant received for weeks 53-20 through 35-21 and assessing an overpayment of those benefits. The January 14, 2022, administrative decision therefore served to amend the Department's initial decisions allowing payment for weeks 47-20 through 35-21 to a decision denying payment for those weeks. In contrast, the January 4, 2022, PUA determination merely concluded that claimant was ineligible to claim benefits under the PUA program, without deciding claimant's entitlement to PUA or FPUC benefits already paid. The January 4, 2022, PUA determination therefore did not constitute decisions to amend the initial decisions to pay benefits for weeks 47-20 through 35-21.

As explained in the first section of this decision, claimant was ineligible to receive PUA benefits for the weeks at issue. Accordingly, claimant was overpaid PUA and corresponding FPUC benefits for weeks 47-20 through 35-21. Further, Order No. 23-UI-243542 concluded that claimant did not make willful misrepresentations or commit fraud in order to obtain benefits, and this decision adopts those findings and conclusions. *See* Order No. 23-UI-243542 at 8. Therefore, claimant's case was not one of willful misrepresentation or fraud, and the Department was subject to the one-year limitation on amending its original decisions to allow payment imposed by ORS 657.267(4).

Federal guidance provides, "The terms and conditions of the state law which apply to claims for regular compensation and extended benefits and the payment thereof shall apply to claims for PUA and the payment thereof except as provided in these operating instructions and any additional guidance issued

regarding the PUA program.” U.S. Dep’t of Labor, Unemployment Program Information Letter (“UIPL”) No. 16-20 at I-11 (April 5, 2020). Overpayment of PUA benefits is governed by 15 U.S.C. § 9021, Section 2102(d)(4) of the CARES Act, Pub. L. 116-136, as amended by Section 201(d) of the Continued Assistance Act (“CAA”), which provides that “[i]n the case of individuals who have received amounts of pandemic unemployment assistance to which they were not entitled, the State shall require such individuals to repay the amount of such pandemic unemployment assistance to the State agency,” unless the state agency waives repayment. However, federal guidance further provides that, “the State agency must recover the amount of PUA to which an individual was not entitled in accordance with the same procedures as apply to recovery of overpayments of regular [unemployment insurance] paid by the State.” U.S. Dep’t of Labor, Unemployment Insurance Program Letter No. 16-20, Change 4 (January 8, 2021) (UIPL 16-20, Change 4), at I-26. Thus, ORS 657.267(4), an aspect of the terms and conditions of state law which apply to claims for regular unemployment insurance, applies with equal force to the claims for PUA and FPUC benefits in this matter.

The Department therefore lacked authority to amend the original decisions allowing the payment of benefits for weeks 47-20 through 49-20 and weeks 51-20 through 01-21. Each of the payments the Department made to claimant for weeks 47-20 through 49-20 and weeks 51-20 through 01-21 were made on or before January 11, 2021. The January 14, 2022, overpayment decision was issued more than one year after January 11, 2021. Thus, the one-year limitation on amending decisions under ORS 657.267(4) applies, and the Department was not permitted to amend the original decisions allowing the payment of benefits for weeks 47-20 through 49-20 and weeks 51-20 through 01-21 with decisions assessing an overpayment for those weeks.

Accordingly, claimant is not liable to repay the \$1,435 PUA overpayment associated with PUA benefits she received for weeks 47-20 through 49-20 and weeks 51-20 through 01-21 (\$205 x seven weeks). Claimant is also not liable to repay the \$600 FPUC overpayment associated with the FPUC benefits she received for weeks 53-20 and 01-21 (\$300 x two weeks).

For the weeks of 50-20 and 02-21 through 35-21, claimant is liable for an overpayment of \$7,175 in PUA benefits. For the weeks 02-21 through 35-21, claimant is liable for an overpayment of \$10,200 in FPUC benefits.

**Overpayment of PUA Benefits Weeks 50-20 and 02-21 through 35-21.** Overpayment of PUA benefits is governed by 15 U.S.C. § 9021(d)(4). As mentioned above, that provision provides that, absent a waiver of recovery by the State, States must require individuals to repay PUA benefits to which they are not entitled. Further, per UIPL 16-20 Change 4 at I-26, “the State agency must recover the amount of PUA to which an individual was not entitled in accordance with the same procedures as apply to recovery of overpayments of regular [unemployment insurance] paid by the State.”

Regarding the procedures that apply to recovery of overpayments of regular unemployment insurance, ORS 657.310(1)(a) and (c) provides that an individual who received benefits to which the individual was not entitled is liable to either repay the benefits or have the amount of the benefits deducted from any future benefits otherwise payable to the individual under ORS chapter 657 during the five-year period following the date the decision establishing the erroneous payment becomes final. ORS 657.310(1)(a) applies if the benefits were received because the individual made or caused to be made a

false statement or misrepresentation of a material fact, or failed to disclose a material fact, regardless of the individual's knowledge or intent. *Id.*

Here, Order No. 23-UI-243542 concluded that claimant did not make willful misrepresentations or commit fraud in order to obtain benefits for weeks 50-20 and 02-21 through 35-21, and this decision adopts those findings and conclusions. *See* Order No. 23-UI-243542 at 8. However, the record shows that claimant mistakenly believed herself to be eligible for PUA benefits and reported on her initial application for PUA benefits that she was a self-employed individual who experienced a reduction in services due to having to cut short the housesitting and pet-sitting for the friend in Hawaii. Exhibit 1 at 17, 19-20. Thus, although it occurred without her knowledge or intent, claimant received PUA benefits for each of weeks 50-20 and 02-21 through 35-21 because she made a false statement about her eligibility on her initial application and ORS 657.310(1)(a) therefore applies to claimant's overpayment of PUA benefits for those weeks.

Claimant therefore was overpaid \$7,175 in PUA benefits for weeks 50-20 and 02-21 through 35-21 (\$205 x 35 weeks) and is liable under 657.310(1)(c) to repay the benefits or have the amount of the benefits deducted from any future benefits otherwise payable to claimant during the five-year period following the date the January 14, 2022, administrative decision becomes final.

**Overpayment of FPUC Benefits Weeks 02-21 through 35-21.** With respect to claimant's overpayment of FPUC benefits for weeks 02-21 through 35-21, under the provisions of the CARES Act, 15 U.S.C. § 9023, claimant also received \$10,200 in FPUC benefits to which she was not entitled. FPUC is a federal benefits program that provided eligible individuals with \$300 per week, in addition to their regular UI or PUA weekly benefit amount, during the period of December 27, 2020, through September 4, 2021 (weeks 53-20 through 35-21). *See* U.S. Dep't of Labor, Unemployment Insurance Program Letter No. 15-20 (April 4, 2020) at 6, (UIPL 15-20). Individuals were eligible to receive the full \$300 FPUC benefit if they were eligible to receive at least one dollar of regular UI or PUA benefits for the claimed week. UIPL 15-20 at I-5. Because claimant was not eligible for at least one dollar of PUA benefits for weeks 02-21 through 35-21, she also was ineligible to receive FPUC benefits for those weeks. *See* U.S. Dep't of Labor, Unemployment Insurance Program Letter No. 15-20 (April 4, 2020) at I-7 ("If an individual is deemed ineligible for regular compensation in a week and the denial creates an overpayment for the entire weekly benefit amount, the FPUC payment for the week will also be denied. And the FPUC overpayment must also be created.").

Accordingly, claimant was overpaid \$300 in FPUC benefits for weeks 02-21 through 35-21 for a total FPUC overpayment of \$10,200 (\$300 x 34 weeks). Under 15 U.S.C. § 9023(f)(3)(A), the Department may recover the FPUC benefits by deduction from any future FPUC payments payable to claimant or from any future unemployment compensation payable to claimant under any state or federal unemployment compensation law administered by the Department during the three-year period following the date she received the FPUC benefits to which she was not entitled.

United States Department of Labor guidance documents elaborate that while an FPUC overpayment may be offset by other State and Federal unemployment benefits payable during this three-year period, State agencies "must recover the amount of FPUC to which an individual was not entitled in accordance with the same procedures as apply to recovery of overpayments of regular [UI] paid by the State." UIPL 15-20 at I-7. "After three years, a State may continue to recover FPUC overpayments through means



other than benefit offsets, according to State law.” UIPL 15-20 at I-7. Therefore, because the provision of state law governing claimant’s PUA overpayment is ORS 657.310(1)(a) and (c), claimant is liable to repay the amount of her FPUC overpayment or have it deducted from any future benefits otherwise payable to claimant under ORS Chapter 657 during the five-year period following the date the January 14, 2022, administrative decision becomes final.

In summary, Order No. 23-UI-243404 is affirmed. Claimant was not eligible for PUA benefits for the weeks at issue. Order No. 23-UI-243542 is modified. Claimant was overpaid benefits for weeks 47-20 through 35-21. However, as to weeks 47-20 through 49-20 and weeks 51-20 through 01-21, the Department was not authorized to amend the original decisions allowing payment of benefits for the weeks at issue, and claimant therefore is not liable for the overpayment as to those weeks. Claimant is not liable to repay the \$1,435 PUA overpayment associated with PUA benefits she received for weeks 47-20 through 49-20 and weeks 51-20 through 01-21 (\$205 x seven weeks). Claimant is also not liable to repay the \$600 FPUC overpayment associated with the FPUC benefits she received for weeks 53-20 and 01-21 (\$300 x two weeks). For the weeks of 50-20 and 02-21 through 35-21, claimant is liable for an overpayment of \$7,175 in PUA benefits. For the weeks 02-21 through 35-21, claimant is liable for an overpayment of \$10,200 in FPUC benefits. The overpaid PUA and FPUC benefits are to be recovered in accordance with the same procedures as apply to recovery of regular UI overpayments.

**DECISION:** Order No. 23-UI-243404 is affirmed. Order No. 23-UI-243542 is modified, as outlined above.

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

**DATE of Service:** January 26, 2024

**NOTE: The Department may defer recovery or completely waive the overpaid amount if certain standards are met. To make a request for Waiver of Overpayment Recovery, call 503-947-1995 or email OED\_Overpayment\_unit@employ.oregon.gov . You must submit waiver applications that correspond to the program for which you were overpaid benefits. If you were overpaid benefits under both state and federal benefits programs, you will need to file two separate waiver applications. To access a State UI Overpayment Waiver application go online to <https://unemployment.oregon.gov/waivers> and click the link for “State UI Overpayment Waiver”. To access a Federal Program Overpayment Waiver application go online to <https://unemployment.oregon.gov/waivers> and click the link for “Federal Program Overpayment Waiver”.**

**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](https://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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