

EMPLOYMENT APPEALS BOARD DECISION
2024-EAB-0551

Modified
Ineligible Weeks 17-24 and 18-24

PROCEDURAL HISTORY: On April 23, 2024, 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 was ineligible for benefits for the week of April 21 through 27, 2024 (week 17-24),¹ and until the reason for the denial ended (decision # L0003730079). Claimant filed a timely request for hearing. On July 10, 2024, ALJ Buckley conducted a hearing at which the Department failed to appear. ALJ Buckley continued the hearing to July 17, 2024. Both the Department and claimant failed to appear on July 17, 2024. On July 19, 2024, ALJ Buckley issued Order No. 24-UI-259733, modifying decision # L0003730079 by concluding that claimant failed to provide information in accordance with the Department’s rules and was ineligible for benefits for the weeks from April 21 through June 22, 2024 (weeks 17-24 through 25-24), but did provide information in accordance with the Department’s rules and was eligible for benefits for the weeks from June 23 through July 13, 2024 (weeks 26-24 through 28-24). On July 23, 2024, claimant filed an application for review with the Employment Appeals Board (EAB).

EVIDENTIARY MATTER: Claimant filed a submission with her application for review of Order No. 24-UI-259733, which claimant styled as a request to reopen the July 17, 2024, continued session of the hearing in this matter. In the submission, claimant explained that she failed to appear on July 17, 2024, because she was unsure whether she had the correct access code to join the hearing, and, by the time she confirmed that she had the correct access code, it was too late to join the hearing.

ALJ Buckley convened the hearing in this matter on July 10, 2024. Claimant was present and testified at the July 10, 2024, hearing session. ALJ Buckley continued the hearing for an additional session to occur on July 17, 2024. The ALJ’s purpose for continuing the hearing to July 17, 2024, was to ensure that she did not “lose jurisdiction” of claimant’s case because the ALJ was taking a “belt and suspenders”

¹ Decision # L0003730079 stated, “We have denied your benefits on this claim beginning April 22, 2024[.]” Exhibit 1 at 5. However, the reference to April 22, 2024 is presumed to be a scrivener’s error because April 22, 2024 was a Monday and benefit weeks begin on Sundays. The administrative decision is therefore considered to have meant to state that claimant’s denial began on April 21, 2024.

approach to enabling claimant to verify her identity through both claimant going in “to WorkSource and giv[ing] them [her] ID,” and the ALJ confirming with OAH’s hearing coordinator “that she received [claimant’s] documents.” July 10, 2024, Audio Record at 26:06, 27:25, 27:39, 27:19.

EAB does not consider claimant’s submission to be a request to reopen because, per OAR 471-040-0040(1)(a) (February 10, 2012), such requests are only available if the requesting party failed to appear at the hearing. Here, the requesting party, claimant, did not fail to appear at the hearing because she appeared on July 10, 2024. Instead, EAB regards claimant’s submission as a request for EAB to consider additional evidence under OAR 471-041-0090(1)(b) (May 13, 2019). Under OAR 471-041-0090(1)(b), “Any party may request that EAB consider additional evidence, and EAB may allow such a request when the party offering the additional evidence establishes that: (A) the additional evidence is relevant and material to EAB’s determination, and (B) Factors or circumstances beyond the party reasonable control prevented the party from offering the additional evidence into the hearing record.”

Claimant failed to establish that factors beyond her reasonable control prevented her from appearing on July 17, 2024, and offering additional evidence into the hearing record at that time. Claimant also failed to establish that additional evidence would be relevant and material to EAB’s determination of whether claimant furnished the information necessary to verify her identity within the time frame prescribed by the Department. ALJ Buckley obtained claimant’s identifying documents from the hearing coordinator and admitted those documents into the hearing record as Exhibit 2. *See* Order No. 24-UI-259733 at 1. It also is evident from Department records that shortly after the July 10, 2024, hearing, claimant provided identifying documents in person at her local WorkSource office. The evidence contained in Exhibit 2 amply verifies claimant’s identity, and the only material issue remaining is whether claimant furnished that information within the time frame prescribed by the Department. No additional evidence is needed to decide that issue. Claimant’s request for EAB to consider additional evidence therefore is denied.

FINDINGS OF FACT: (1) On or about April 7, 2024, claimant filed an initial claim for unemployment insurance benefits. The Department determined that claimant had a valid claim for benefits. Claimant did not initially file any weekly claims for benefits.

(2) On April 11, 2024, the Department mailed claimant a letter informing her that she was required to verify her identity by a particular deadline.

(3) Claimant visited the Department’s Frances Online website to verify her identity, but was confused about the process and could not determine where to submit her identity verification documents on the website. Claimant did not know that she could physically bring her identity verification information to a WorkSource office to comply with the verification requirement.

(4) Claimant did not verify her identity by the deadline set forth in the April 11, 2024, letter.

(5) On April 23, 2024, the Department issued decision # L0003730079 concluding that claimant failed to verify her identity, and so failed to provide information in accordance with the Department’s rules, and therefore was ineligible for benefits beginning the week of April 21, 2024. Exhibit 1 at 5. On May 1, 2024, claimant requested a hearing on decision # L0003730079. Exhibit 1 at 2. The Office of Administrative Hearings (OAH) scheduled a hearing on decision # L0003730079 for July 10, 2024.

(6) On or about June 28, 2024, claimant called OAH and spoke to an OAH representative. On June 28, 2024, claimant emailed the representative copies of two student identification cards, her Oregon driver's license, and two pieces of mail that showed her name and address. *See Exhibit 2.* These documents verified claimant's identity.

(7) On July 10, 2024, ALJ Buckley conducted the hearing in this matter. During the hearing, claimant, at the urging of ALJ Buckley, agreed that she would visit a WorkSource office and provide her identifying information in person. July 10, 2024, Audio Record at 26:00 to 31:42.

(8) Shortly after July 10, 2024, claimant visited a WorkSource office and provided her identifying documents in person.²

(9) On July 30, 2024, claimant filed some weekly claims for benefits. Claimant claimed benefits for the weeks from April 21 through May 4, 2024 (weeks 17-24 and 18-24). These are the weeks at issue. Claimant also claimed benefits for the weeks from April 7 through 20, 2024 (weeks 15-24 and 16-24). These weeks are not at issue because they occurred before the denial period set forth by decision # L0003730079. The Department did not pay claimant benefits for the weeks at issue, weeks 17-24 and 18-24.³

CONCLUSIONS AND REASONS: Order No. 24-UI-259733 is modified. Claimant failed to provide information in accordance with the Department's rules and therefore was ineligible for benefits for weeks 17-24 and 18-24.

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. * * *

* * *

² EAB has taken notice of this fact, which is contained in Employment Department records. OAR 471-041-0090(1). 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.

³ EAB has taken notice of the facts contained in this paragraph, which are contained in Employment Department records. OAR 471-041-0090(1). 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.

The order under review concluded that claimant was *not* eligible for benefits for the weeks from April 21 through June 22, 2024 (weeks 17-24 through 25-24), which corresponds to the weeks that occurred between when decision # L0003730079 began its denial, to the week before claimant provided her identifying documents to the OAH representative. Order No. 24-UI-259733 at 4. Conversely, the order concluded that claimant *was* eligible for benefits for the weeks from June 23 through July 13, 2024 (weeks 26-24 through 28-24), which corresponds to the weeks that occurred after claimant provided her identifying documents to the OAH representative through the last completed week before the July 19, 2024 issuance of the order under review. Order No. 24-UI-259733 at 4.

However, as of the date of this decision, Department records show that claimant has claimed only the weeks from April 7 through May 4, 2024 (weeks 15-24 through 18-24). The failure to provide information issue does not apply to the first two weeks of this claiming sequence, April 7 through 20, 2024 (weeks 15-24 and 16-24), because by the terms of decision # L0003730079, claimant's denial of benefits based on her failure to provide information began April 22, 2024. *See* Exhibit 1 at 5. Furthermore, as to any weeks after week 18-24, EAB does not have authority to apply the failure to provide information issue to deny benefits for weeks claimant has not claimed. Accordingly, the weeks at issue are weeks 17-24 and 18-24.

Nevertheless, the documents contained in Exhibit 2 confirm claimant's identity, and the record shows that claimant provided those documents to the Department on June 28, 2024. Therefore, it should be noted that it is correct that claimant can be deemed *not* eligible for benefits for the weeks that occurred before June 28, 2024, but eligible for benefits for the weeks that occurred afterward (so long as she is not ineligible for a different reason). Claimant is encouraged to file her weekly claims for benefits for any weeks of unemployment occurring after May 4, 2024, but is cautioned that her failure to provide identifying information until June 28, 2024, is likely to result in the Department deeming her ineligible for benefits for weeks 19-24 through 25-24, should she claim those weeks. With respect to weeks 26-24 and after, the failure to provide information issue should not be a basis for the Department to deem claimant ineligible for benefits because claimant verified her identity on June 28, 2024.

Turning to the weeks at issue, per the Department's April 11, 2024, letter, claimant was required to complete her identity verification by the deadline set forth in the letter. Claimant did not complete her identity verification by the deadline. Claimant therefore failed to furnish the information within the time frame provided by the Department, as required by ORS 657.260(1) and OAR 471-030-0025(2). As a result, claimant's claims for benefits for weeks 17-24 and 18-24 were not filed in accordance with ORS 657.260. As such, per ORS 657.155(1)(b), claimant is not eligible for benefits with respect to either of those weeks.

After the deadline set forth in the letter had passed, claimant provided documentation that verified her identity, via email to an OAH representative on June 28, 2024, and in person at her local WorkSource office shortly after July 10, 2024. Nevertheless, claimant failed to furnish the information within the time frame prescribed by the Department in the April 11, 2024, letter, and therefore failed to satisfy ORS 657.155(1)(b) with respect to the weeks at issue.

Claimant testified at hearing that she was confused about the process and could not figure out where to submit her identity verification documents on Frances Online. July 10, 2024, Audio Record at 11:13, 12:21. However, there is no good cause exception to the requirement to provide information within the

timeframe provided by the Department under such circumstances. For these reasons, claimant failed to provide information in accordance with the Department's rules and therefore is ineligible for benefits for the weeks at issue, the weeks from April 21 through May 4, 2021 (weeks 17-24 and 18-24).

If claimant wishes to claim additional weeks of benefits, instructions for how to do so are available at this website: <https://unemployment.oregon.gov/weekly-claims>. The instructions indicate that a weekly claim for benefits may be filed via Frances Online, by telephone, or, if someone is unable to use the online or telephone options, by printing and faxing or mailing a completed claim form for each week claimed.

DECISION: Order No. 24-UI-259733 is modified as set forth above.

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

DATE of Service: August 8, 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.

Please help us improve our service by completing an online customer service survey. To complete the survey, please go to <https://www.surveygizmo.com/s3/5552642/EAB-Customer-Service-Survey>. 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

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.

Employment Appeals Board - 875 Union Street NE | Salem, OR 97311
 Phone: (503) 378-2077 | 1-800-734-6949 | Fax: (503) 378-2129 | TDD: 711
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