

EMPLOYMENT APPEALS BOARD DECISION
2024-EAB-0673

Affirmed
Eligible Weeks 21-24 through 24-24
Ineligible 25-24 through 32-24

PROCEDURAL HISTORY: On June 18, 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 June 16 through 22, 2024 (week 25-24) and until the reason for the denial ended (decision # L0004645963).¹ Also on June 18, 2024, the Department served notice of an administrative decision concluding that claimant failed to register for work in accordance with the Department’s rules and therefore was ineligible for benefits for the week of May 19 through 25, 2024 (week 21-24) and until the reason for the denial ended (decision # L0004747983). Claimant filed timely requests for hearing on decisions # L0004645963 and L0004747983.

On September 4, 2024, ALJ Contreras conducted a hearing on decisions # L0004645963 and L0004747983. On September 11, 2024, ALJ Contreras issued Order No. 24-UI-265737, modifying decision # L0004645963 by concluding that claimant failed to provide information in accordance with the Department’s rules and was ineligible for benefits for the weeks of June 16 through August 10, 2024 (week 25-24 through 32-24).² Also on September 11, 2024, ALJ Contreras issued Order No. 24-UI-265739, modifying decision # L0004747983 by concluding that claimant failed to register for work in accordance with the Department’s rules and was ineligible for benefits for the weeks of June 16 through August 10, 2024 (week 25-24 through 32-24). On September 21, 2024, claimant filed applications for review of Orders No. 24-UI-265737 and 24-UI-265739 with the Employment Appeals Board (EAB).

¹ Decision # L0004645963 stated that the date of claimant’s ineligibility began June 17, 2024. Order No. 24-UI-265737 Exhibit 1 at 1. As June 17, 2024 was a Monday and weeks of unemployment begin on Sundays, it is presumed that the reference to June 17 was a clerical error and decision # L0004645963 intended the date of ineligibility to begin June 16, 2024.

² Order No. 24-UI-265737 stated under its “Order” section that claimant was ineligible for benefits through August 31, 2024. Order No. 24-UI-265737 at 4. As the last week claimant claimed benefits was the week of August 4 through 10, 2024 (week 32-24), the reference to August 31, 2024 is presumed to be an error and the order is presumed to have meant to state August 10, 2024.

Pursuant to OAR 471-041-0095 (October 29, 2006), EAB consolidated its review of Orders No. 24-UI-265737 and 24-UI-265739. For case-tracking purposes, this decision is being issued in duplicate (EAB Decisions 2024-EAB-0672 and 2024-EAB-0673).

FINDINGS OF FACT: (1) On May 21, 2024, claimant filed an initial claimant for benefits. The Department determined claimant had a monetarily valid claim.

(2) Claimant lives in Camas, Washington. Washington is considered claimant's home state for work registration purposes.

(3) On May 28, 2024, the Department sent claimant a letter via Frances Online. The letter notified claimant that to be eligible for benefits, she was required to register for work by registering with her home state's designated job search system and sending the Department proof of the registration. The letter also notified claimant that to be eligible for benefits, she was required to provide information verifying her identity by sending copies of two primary documents, or one primary and two secondary documents, to the Department.

(4) The letter required claimant to complete her work registration and to provide the information verifying her identity by June 18, 2024.

(5) Claimant received the Department's May 28, 2024, letter through Frances Online. Claimant was confused by the letter. Claimant thought she could satisfy the work registration requirements by signing up with any job seeking website. She also thought giving the Department an identifying code, rather than copies of documents, was sufficient to verify her identity. Prior to the June 18, 2024, deadline, claimant attempted to contact the Department for clarification but was unable to reach anyone.

(6) Claimant did not complete the work registration steps or provide sufficient information to verify her identity by the June 18, 2024, deadline.

(7) After the June 18, 2024, deadline, in August and September 2024, claimant was able to speak with Department representatives and gain a better understanding of what was required of her. On August 19, 2024, claimant satisfied the work registration requirements by providing the Department with proof that she had registered with Washington's designated job search system. On September 3, 2024, claimant verified her identity by providing the Department with copies of identifying documents.³

(8) Claimant claimed benefits for the weeks from May 19 through August 10, 2024 (weeks 21-24 through 32-24). These are the weeks at issue. Claimant received waiting week credit for week 21-24, and was paid benefits for weeks 22-24 through 24-24. The Department did not pay claimant benefits for weeks 25-24 through 32-24.

CONCLUSIONS AND REASONS: Claimant did not register for work and did not provide information in accordance with the Department's rules and was ineligible for benefits for the weeks of June 16

³ EAB has taken notice of the facts contained in this paragraph, which are 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 facts will remain in the record.

through August 10, 2024 (weeks 25-24 through 32-24). However, claimant was not ineligible for benefits on these bases for the weeks from May 19 through June 15, 2024 (weeks 21-24 through 24-24).

The Department gave claimant waiting week credit or paid claimant benefits for weeks 21-24 through 24-24, and therefore has the burden to prove that benefits should not have been paid for those weeks. Because the Department did not pay claimant benefits for weeks 25-24 through 32-24, claimant has the burden to show that she was eligible for benefits for those weeks. *See Nichols v. Employment Division*, 24 Or App 195, 544 P2d 1068 (1976) (where the Department has paid benefits it has the burden to prove benefits should not have been paid; by logical extension of that principle, where benefits have not been paid claimant has the burden to prove that the Department should have paid benefits).

As an initial matter, note that the Department's May 28, 2024, letter was not offered into evidence at hearing and the testimony provided at hearing did not establish what the deadline for compliance set forth by the letter was. The Department did not appear or offer an Attestation in lieu of appearance. Given the limited evidence available, and in light of the fact that the Department issued the administrative decisions in these consolidated cases on June 18, 2024, more likely than not the Department's May 28, 2024, letter required claimant to complete her work registration and to provide the information verifying her identity by June 18, 2024. *See Order No. 24-UI-265737 Exhibit 1 at 1.*; *Order No. 24-UI-265739 Exhibit 1 at 1.* The facts of these consolidated decision have been found in accordance with this weighing of the evidence.

Failure to Register for Work. ORS 657.155(1)(a) states that an unemployed individual is eligible for benefits only if the individual has registered for work and thereafter continued to report at an employment office in accordance with Department rules. ORS 657.159(1) states that to satisfy the registration requirement of ORS 657.155(1) an individual shall submit such information regarding the individual's job qualifications, training and experience as the Department requests.

OAR 471-020-0020 (August 8, 2004) states in relevant part:

(1)(a) Except for individuals identified in OAR 471-020-0021, all unemployment insurance claimants shall submit such information as may be required by the Oregon Employment Department to carry out job placement services for the individual including, but not limited to, the individual's job qualifications, training and experience. Such information shall be entered into the Business & Employment Services online job match system concurrent with, or as soon as possible following, the filing of an initial claim for unemployment insurance benefits. Entry of this information shall constitute enrollment.

* * *

OAR 471-030-0035 (January 11, 2018) states in relevant part:

(1) A claimant may fulfill the "registered for work" requirements of ORS 657.155(1)(a) by completion of such processes as directed by the Director in order to create a full registration for work.

(2) "Full registration for work" as used in this rule, means providing information regarding the individual's job qualifications, skills, training and experience as the

Director or an authorized representative of the Director deems necessary to carry out job placement services for the individual.

* * *

The Department notified claimant by letter that she needed to complete her work registration by registering with her home state's designated job search system and sending the Department proof of the registration by June 18, 2024. Claimant received this notification, but did not initially complete the registration because the letter confused her and she thought she could satisfy the work registration requirements by signing up with any job seeking website. As of June 18, 2024, claimant had not completed her work registration. On August 19, 2024, claimant satisfied the work registration requirements by providing the Department with proof that she had registered with Washington's designated job search system.

Claimant was not ineligible for benefits for failing to register for work as to weeks 21-24 through 24-24 because those weeks, the weeks of May 19 through June 15, 2024, preceded the June 18, 2024, deadline by which claimant was required to register. Because the weeks occurred before the deadline to register, claimant's incomplete work registration status during those weeks was not inconsistent with the Department's work registration rules. Claimant therefore was eligible for benefits for weeks 21-24 through 24-24 if otherwise eligible.

As to weeks 25-24 through 32-24, however, claimant's work registration status was not in accordance with the Department's rules. During those weeks, the weeks of June 16 through August 10, 2024, the June 11, 2024, deadline by which claimant was required to register passed and claimant was not in compliance. Claimant therefore was ineligible for benefits for weeks 25-24 through 32-24.

Failure to Provide Information to Verify Identity. 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. * * *

The Department notified claimant by letter that she needed to provide information verifying her identity by sending copies of two primary documents, or one primary and two secondary documents, to the Department by June 18, 2024. Claimant received this notification, but did not initially complete the registration because the letter confused her and she thought she could satisfy the requirement by giving the Department an identifying code, rather than copies of documents. As of June 18, 2024, claimant had not provided information verifying her identity. On September 3, 2024, claimant verified her identity by providing the Department with copies of identifying documents.

Claimant was not ineligible for benefits for failing to provide information as to weeks 21-24 through 24-24 because those weeks, the weeks of May 19 through June 15, 2024, preceded the June 18, 2024, deadline by which claimant was required to provide the information. Because the weeks occurred before the deadline to provide the information, claimant's incomplete identity verification status during those weeks was not inconsistent with the Department's rules. Claimant therefore was eligible for benefits for weeks 21-24 through 24-24 if otherwise eligible.

As to weeks 25-24 through 32-24, however, claimant's status as having not provided identity verifying information was not in accordance with the Department's rules. During those weeks, the weeks of June 16 through August 10, 2024, the June 18, 2024, deadline by which claimant was required to comply had passed and claimant was not in compliance. Claimant therefore was ineligible for benefits for weeks 25-24 through 32-24.

For these reasons, claimant is eligible for benefits for weeks 21-24 through 24-24 if otherwise eligible. Claimant is not eligible for benefits for weeks 25-24 through 32-24.

DECISION: Order No. 24-UI-265737 is affirmed.

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

DATE of Service: October 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.

Please help us improve our service by completing an online customer service survey. To complete the survey, please go to <https://www.surveymizmo.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.

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