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CHAPTER 471

EMPLOYMENT DEPARTMENT

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FILING CAPTION: Changes to the Process for Requesting an Unemployment Insurance Benefits Hearing

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AMEND: 471-040-0005

RULE TITLE: Request for Hearing

NOTICE FILED DATE: 05/21/2018

RULE SUMMARY: The Employment Department is amending the rule for how requests for hearings are processed on administrative decisions related to the payment or the amount of Unemployment Insurance (UI) benefits. The department is making three changes to the rule:

- 1) In addition to receiving requests by mail or by fax, the department will accept requests by e-mail or other electronic means as designated by the department on the appealable document. The department will no longer accept UI benefit hearing requests by telephone (except in certain circumstances as designated with the appealable document).
- 2) The department will no longer accept requests for hearing received by mail or by fax to the Office of Administrative Hearings.
- 3) Requests for hearing will continue to be filed provided the party specifically requests a hearing or otherwise expresses a present intent to appeal but the department will now require that it can be determined what issue or decision is being appealed.

These changes do not diminish or limit the right to due process UI benefit recipients or their employers have in requesting a hearing. The transition period for this change in process will be three months.

RULE TEXT:

(1) A Request for hearing may be filed on forms provided by the Employment Department or similar offices in other states. Use of the form is not required provided the party specifically requests a hearing or otherwise expresses a present intent to appeal and it can be determined what issue or decision is being appealed.

(2) A request for hearing on an administrative decision related to the payment or amount of unemployment insurance benefits may be filed:

- (a) By mail, fax, e-mail, or other means as designated by Employment Department with the appealable document; or
- (b) In person at any publicly accessible Employment Department office in Oregon.

(3) A request for hearing on an administrative decision related to unemployment insurance taxes pursuant to ORS 657.683, 657.663, 657.485, and 657.457, must be in writing and may be filed:

- (a) By mail or by fax with any Employment Department UI Center or UI Tax Section office in Oregon;

- (b) In person at any publicly accessible Employment Department office in Oregon;
 - (c) By e-mail to the Employment Department's e-mail address as provided on the appealable document; or
 - (d) Through the use of the Employment Department's secured website as provided on the appealable document.
- (4) The filing date for any request for hearing shall be determined as follows:
- (a) When delivered in person to any Employment Department office in the state of Oregon, the date of delivery, as evidenced by the receipt date stamped or written by the agency employee who receives the document, shall be the date of filing.
 - (b) When filed by mail, the date of filing shall be the postmarked date affixed by the United States Postal Service or, in the absence of a postmarked date, the most probable date of mailing.
 - (c) When filed by fax, the date of filing shall be the encoded date on the fax document unless such date is absent, illegible, or improbable, in which case the fax receipt date stamped or written by the agency employee, if available, shall be the date of filing. If a filing date cannot otherwise be determined, the most probable date of faxing shall be the date of filing.
 - (d) When filed by e-mail, the date of filing shall be the date of delivery, as evidenced by the receipt date on the Employment Department's e-mail system, according to Pacific Time.
 - (e) When filed through the secured website, the date of filing shall be the date indicated in the confirmation e-mail sent to the requestor by the Employment Department, according to Pacific Time.
 - (f) When filed by any other means, the date of filing shall be the date of delivery, as evidenced by the receipt date stamped or written by the employee of the Employment Department who receives the document.
- (5) A request for hearing with respect to a claim for benefits shall not stay the payment of any benefits not placed in issue by the request for hearing, nor shall it stay an order previously entered allowing benefits.
- (6) This rule is effective for all hearing requests filed after the effective date of this rule.

STATUTORY/OTHER AUTHORITY: ORS 183.335, 657.260, 657.265 - 657.270, 657.335, 657.610 & OL 1993, Ch. 729

STATUTES/OTHER IMPLEMENTED: ORS 657.280, 657.610, 657