

A-Engrossed
House Bill 2439

Ordered by the House March 4
Including House Amendments dated March 4

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of Governor John A. Kitzhaber, M.D., for Employment Department)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Requires request to reopen hearing upon claim to be filed with Office of Administrative Hearings with copy to Employment Department.

Authorizes Director of the Employment Department to dismiss request for hearing upon claim if certain conditions exist.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to hearings upon claims for unemployment insurance benefits; creating new provisions;
3 amending ORS 657.270; and declaring an emergency.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 657.270 is amended to read:

6 657.270. (1) When a request for hearing upon the claim has been filed, as provided in ORS
7 657.266 to 657.269, an administrative law judge from the Office of Administrative Hearings estab-
8 lished under ORS 183.605 shall be assigned to conduct [*such*] **the** hearing.

9 **(2)(a)** The Director of the Employment Department shall notify the parties **to the hearing re-**
10 **quested under subsection (1) of this section**, in plain language, of their right, upon [*their*] request,
11 to receive copies of all documents and records in the possession of the Employment Department
12 relevant to the decision of the authorized representative, including any statements of the claimant,
13 employer or employer's agents.

14 [(2)] **(b)** When the hearing is conducted by telephone, the director shall provide to all parties
15 copies of all documents and records in the possession of the director that will be introduced at the
16 hearing as exhibits, including any statements of the claimant, employer or employer's agents, and
17 all jurisdictional documents, at least seven days prior to the hearing. A party may request that the
18 hearing be continued in order to receive copies of and respond to documentary evidence introduced
19 at the hearing and not provided to the party prior to the hearing.

20 (3)[(a)] When the claimant or the employer is [*unrepresented*] **not represented** at the hearing
21 **by an attorney, paralegal worker, legal assistant, union representative or person otherwise**
22 **qualified by experience or training**, the administrative law judge shall explain the issues involved
23 in the hearing and the matters that the unrepresented claimant or [*the*] employer must either prove
24 or disprove. The administrative law judge shall ensure that the record developed at the hearing
25 shows a full and fair inquiry into the facts necessary for consideration of all issues properly before
26 the administrative law judge in the case.

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.
New sections are in **boldfaced** type.

1 ***[(b) As used in this subsection, “unrepresented” means the claimant or the employer is not repres-***
2 ***ented by an attorney, paralegal worker, legal assistant, union representative or person otherwise qual-***
3 ***ified by experience or training.]***

4 **(4)(a)** After the administrative law judge has given all parties reasonable opportunity for a fair
5 hearing, the administrative law judge shall promptly affirm, modify or set aside the decision of the
6 authorized representative with respect to the claim.

7 **(b)** The administrative law judge promptly shall notify all parties entitled to notice of the deci-
8 sion of the authorized representative, as set forth in ORS 657.266 to 657.269, of the administrative
9 law judge’s decision, including a dismissal of the request for hearing as provided in subsection (7)
10 of this section, and **the reasons *[therefor]* for the administrative law judge’s decision.** The ad-
11 ministrative law judge may address issues raised by evidence in the record, including but not limited
12 to the nature of the separation and continued claims filed subsequent to issuance of a decision under
13 ORS 657.267, notwithstanding the scope of the issues raised by the parties or the arguments in a
14 party’s request for hearing.

15 **(5)(a)** Following issuance of a written decision by an administrative law judge, any party may
16 file a request to reopen the hearing. **The party making the request must file the request with**
17 **the Office of Administrative Hearings and simultaneously provide a copy to the Employment**
18 **Department.**

19 **(b)** The administrative law judge’s decision whether to grant the request to reopen the hearing
20 shall be in writing and shall be mailed to the parties.

21 **(c)** The administrative law judge may reopen the hearing if:

22 ***[(a)] (A)*** Any party that is requesting the reopening failed to appear at the hearing;

23 ***[(b)] (B)*** The party files the request within 20 days after the issuance of the written decision by
24 the administrative law judge; and

25 ***[(c)] (C)*** The party shows good cause for failing to appear.

26 **(6)** Except as provided in subsection (7) of this section, **the decision of the administrative law**
27 **judge is final** unless the director or any other party to the hearing[,] **files an application for re-**
28 **view with the Employment Appeals Board** within 20 days after the delivery of the notice under
29 subsection (4) of this section, or if mailed, within 20 days after the notice was mailed to the party’s
30 last-known address[, *files with the Employment Appeals Board an application for review, the decision*
31 *of the administrative law judge shall be final*].

32 **(7)(a)** The administrative law judge may dismiss a request for hearing under subsection (1) of
33 this section *[when]* **if:**

34 **(A)** The request for hearing is withdrawn by the requesting party;

35 **(B)** In response to a request by the administrative law judge or the administrative law judge’s
36 designee, the requesting party fails to provide[,] in a timely manner[,] the information necessary to
37 allow the matter to be scheduled for hearing;

38 **(C)** The requesting party fails to appear at the time of the hearing;

39 **(D)** The issues are resolved by cancellation or amendment of the decision that is the subject of
40 the hearing request;

41 **(E)** The requesting party fails to file the request for hearing within the time allowed by statute
42 or rule and fails to show good cause for the delay;

43 **(F)** The request for hearing is filed prior to the date of the written decision or written deter-
44 mination that is the subject of the request; or

45 **(G)** The request for hearing is made by a person who is not entitled to a hearing or is not the

1 authorized representative of a party who is entitled to a hearing.

2 **(b) The Director of the Employment Department may dismiss a request for hearing under**
3 **subsection (1) of this section if the conditions described in paragraph (a)(A), (D), (F) or (G)**
4 **of this subsection exist.**

5 [(b)] **(c) A dismissal by the administrative law judge under paragraph (a) of this subsection is**
6 **final unless the party whose request for hearing has been dismissed files, within 20 days after the**
7 **dismissal notice was mailed to the party's last-known address, an application for review as provided**
8 **under this chapter.**

9 **(d)(A) A dismissal by the director under paragraph (b) of this subsection is final unless**
10 **the party whose request for hearing has been dismissed files, within 20 days after the dis-**
11 **missal notice was mailed to the party's last-known address, a request for hearing regarding**
12 **the dismissal.**

13 **(B) If the party files a timely request under subparagraph (A) of this paragraph, the**
14 **hearing regarding the dismissal shall be assigned to an administrative law judge from the**
15 **Office of Administrative Hearings under this section.**

16 **(C) The administrative law judge assigned under subparagraph (B) of this paragraph shall**
17 **determine whether the dismissal was appropriately entered. If the dismissal was not appro-**
18 **priately entered, the administrative law judge shall decide the underlying issue upon which**
19 **the hearing was requested.**

20 **SECTION 2. The amendments to ORS 657.270 by section 1 of this 2015 Act apply to re-**
21 **quests for hearings and requests to reopen hearings filed on or after the effective date of this**
22 **2015 Act.**

23 **SECTION 3. This 2015 Act being necessary for the immediate preservation of the public**
24 **peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect**
25 **on its passage.**

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