

EMPLOYMENT APPEALS BOARD DECISION
2017-EAB-0092

Affirmed
Eligible Weeks 47-16 and 48-16

PROCEDURAL HISTORY: On December 5, 2016, the Oregon Employment Department (the Department) served notice of a claim determination that found claimant was eligible to receive Supplemental Unemployment benefits for Dislocated Workers (SUD) for the period from November 20 through December 3, 2016 (weeks 47-16 and 48-16). Claimant filed a timely request for hearing. On December 29, 2016, ALJ Shoemake conducted a hearing, and on January 6, 2017, issued Hearing Decision 17-UI-74225, affirming the administrative decision. On January 24, 2017, claimant filed an application for review with the Employment Appeals Board (EAB).

In her written argument, claimant stated that she wanted to “appeal to have retroactive SUD benefits paid to me for weeks 40-47.” Written Argument at 2. We note, however, that Hearing Decision 16-UI-74225 found that claimant was eligible for benefits for week 47-16. In regard to the other weeks for which claimant seeks retroactive benefits, the ALJ did not err when she concluded that she had no jurisdiction to address claimant’s eligibility for these benefits because claimant had not claimed and been denied benefits for those weeks. If claimant claims benefits for weeks 40-16 through 46-16 and the Department denies those benefits, claimant will be eligible to request a hearing on the decision denying those benefits.¹

EAB reviewed the entire hearing record. On *de novo* review and pursuant to ORS 657.275(2), the hearing decision under review is **adopted**.

DECISION: Hearing Decision 17-UI-74225 is affirmed.

Susan Rossiter and D. P. Hettle;

¹ The rule applicable to backdating a claim for unemployment benefits, OAR 471-0030-0040(3) (February 23, 2014) provides that “an initial, additional, or reopened claim must be filed prior to or during the first week or series of weeks for which benefits, waiting week credit, or noncompensable credit is claimed...” Although an Employment Department will, upon request, backdate an additional or reopened claim to the calendar week immediately preceding the week in which the backdating request was made, there is no provision in the rules that permits backdating of an initial claim. *Id.*

J. S. Cromwell, not participating.

DATE of Service: January 31, 2017

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.surveymonkey.com/s/5WQXNJH>. If you are unable to complete the survey online and wish to have a paper copy of the survey, please contact our office.