

**EMPLOYMENT APPEALS BOARD DECISION**  
**2017-EAB-0953**

*Affirmed*  
*Ineligible*

**PROCEDURAL HISTORY:** On June 20, 2017, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant was not available for work during the weeks of January 15, 2017 through June 17, 2017 (decision # 103926). Claimant filed a timely request for hearing. On July 25, 2017, ALJ M. Davis conducted a hearing and issued Hearing Decision 17-UI-88836, modifying the Department's decision and concluding claimant was not available for work during the weeks of January 15, 2017 through June 24, 2017. On August 5, 2017, claimant filed an application for review with the Employment Appeals Board (EAB).

**FINDINGS OF FACT:** (1) On December 27, 2016, claimant filed an initial claim for unemployment benefits. Claimant claimed benefits for the weeks of January 15, 2017 through June 24, 2017 (weeks 03-17 through 25-07), the weeks at issue.

(2) During the weeks at issue, claimant sought work as a general laborer. Claimant lived in Coquille, Oregon. Claimant's labor market was Coquille, Coos Bay and Myrtle Point, Oregon. Coquille was located approximately 20 miles from Coos Bay, and 11 miles from Myrtle Point. The days and hours customary for a general laborer in claimant's labor market were all days, day and swing shifts.

(3) Sometime before the weeks at issue, claimant's truck broke down and it did not run reliably enough for him to use it to commute to the job he had at that time with Pan Pacific, a shrimp processor. A representative of Pan Pacific told claimant he could return to work when he had reliable transportation. Claimant was unable to commute to work with other Pan Pacific employees, and maintain his job, because the only other employees who travelled together to Pan Pacific for work lived in Myrtle Point and worked a different shift from claimant.

(4) During all of the weeks at issue, claimant's truck was not reliable enough for him to use either seeking work or commuting to a job if he obtained one outside of Coquille, and specifically in Coos Bay or Myrtle Point. In addition, during the weeks at issue, claimant did not have the funds to maintain the insurance required to lawfully operate his truck. Although some public transportation ran between Coquille and Coos Bay, it reached Coquille only two times per day and was not suitable for claimant to

use to commute to work during all of the hours and days customary for the work he was seeking. During the weeks at issue claimant relied on an elderly friend to drive him when he sought work in Coos Bay, Myrtle Point or anywhere outside of Coquille. Because of the friend's age, she would be unable to drive claimant to and from work on a regular basis if he obtained a job that was located outside of Coquille. If an employer located outside of Coquille offered claimant a job, claimant could accept that job only if he was able to arrange to travel to work with another employee of that employer.

**CONCLUSIONS AND REASONS:** Claimant was not available for work during the weeks at issue and is not eligible to receive benefits for those weeks.

To be eligible to receive benefits, unemployed individuals must be able to work, available for work, and actively seek work during each week claimed. ORS 657.155(1)(c). An individual must meet certain minimum requirements to be considered "available for work" for purposes of ORS 657.155(1)(c). OAR 471-030-0036(3) (February 23, 2014). Among those requirements are that the individual be willing to work and capable of reporting to full time, part time and temporary work opportunities throughout the labor market during all of the usual days and hours of the week customary for the work being sought, and refrain from imposing conditions that limit the individual's opportunities to return to work at the earliest possible time. *Id.*

Claimant did not dispute that, during the weeks at issue, his car did not function well enough to commute to a job, public transportation did not operate sufficiently to make it a suitable transportation option for commuting to work and his elderly friend could not be expected to provide transportation to him on the regular basis that a job would require. Audio at ~15:40, ~16:45. Claimant also agreed that his ability to report for any work located outside of Coquille was contingent on his making arrangements to carpool with another employee of the employer who had hired him. Audio at ~17:00. It is uncertain and highly problematic that claimant would be able to make the type of commuting arrangements that would enable him to report for a job that if he was offered one that was located outside of Coquille, and he had not been able to do so when he tried to maintain his employment at Pan Pacific. On this record, the preponderance of the evidence shows that claimant was, most likely, not capable of reliably reporting for work or work opportunities throughout his labor market due to his lack of reliable transportation. Consequently, claimant was not available for work during the weeks at issue and is not eligible to receive unemployment benefits for those weeks.

**DECISION:** Hearing Decision 17-UI-88836 is affirmed.

J. S. Cromwell and D. P. Hettle;  
Susan Rossiter, not participating.

**DATE of Service:** August 25, 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](http://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.