

**EMPLOYMENT APPEALS BOARD DECISION**  
**2021-EAB-0882**

*Affirmed*  
*Late Claims for Benefits Denied*  
*Ineligible Weeks 41-20 through 18-21*

**PROCEDURAL HISTORY:** On June 16, 2021, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant filed late claims for unemployment insurance benefits for the weeks including October 4, 2020 through January 2, 2021 (weeks 41-20 through 53-20) and was denied benefits for those weeks (decision # 131611). Also on June 16, 2021, the Department served notice of an administrative decision concluding that claimant filed late claims for unemployment insurance benefits for the weeks including January 3, 2021 through May 8, 2021 (weeks 01-21 through 18-21) and was denied benefits for those weeks (decision # 133253). Claimant filed a timely request for hearing on decisions # 131611 and 133253. On October 13, 2021, ALJ Wyatt conducted a consolidated hearing, and on October 22, 2021 issued Order No. 21-UI-177786, affirming decision # 131611, and Order No. 21-UI-177785, affirming decision # 133253. On October 29, 2021, claimant filed an application for review of Orders No. 21-UI-177786 and 21-UI-177785 with the Employment Appeals Board (EAB).

Pursuant to OAR 471-041-0095 (October 29, 2006), EAB consolidated its review of Orders No. 21-UI-177786 and 177785. For case-tracking purposes, this decision is being issued in duplicate (EAB Decisions 2021-EAB-0881 and 2021-EAB-0882).

**WRITTEN ARGUMENT:** Claimant's argument contained information that was not part of the hearing record, and did not show that factors or circumstances beyond claimant's reasonable control prevented her from offering the information during the hearing. Under ORS 657.275(2) and OAR 471-041-0090 (May 13, 2019), EAB considered only information received into evidence at the hearing when reaching this decision. EAB considered claimant's argument to the extent it was based on the record.

**FINDINGS OF FACT:** (1) On March 22, 2020, claimant filed an initial claim for unemployment insurance benefits. The Department determined claimant had a valid claim for regular unemployment insurance benefits with a first effective week of March 15, 2020 through March 21, 2020 (week 12-20). Thereafter, claimant claimed benefits each week continuously into September 2020.

(2) At the end of the week of September 6, 2020 through September 12, 2020 (week 37-20), claimant exhausted the maximum benefit amount on her claim. Upon the exhaustion of the maximum benefit amount, claimant could continue to make weekly claims for benefits on the claim and receive payments funded by a federal extension program. The federal extension program would fund payments on claimant's claim automatically. Claimant did not need to file a new initial claim to activate the federal extension funding of payments on her claim.

(3) On September 15, 2020, The Department mailed claimant a letter advising that she had exhausted the maximum benefit amount on her claim.

(4) On September 20, 2020, claimant made a weekly claim for benefits for the week of September 13 2020 through September 19, 2020 (week 38-20). Claimant received benefits for that week funded by the federal extension program.

(5) A few days after September 20, 2020, claimant received the Department's letter advising that she had exhausted the maximum benefit amount on her claim. After receiving the letter, claimant stopped making weekly claims for benefits because she thought her claim lacked funds to pay benefits.

(6) On December 2, 2020, the Department mailed claimant a letter suggesting that claimant restart her unemployment insurance claim and advising that if she did so, her benefits would be paid for via the federal extension program. The letter advised that, to receive benefits, it was necessary for claimant to restart her claim because she had stopped continuously claiming each week.

(7) On December 14, 2020, after receiving the Department's December 2, 2020 letter, claimant logged into the Department's online system to make a weekly claim for benefits. The system prompted claimant to restart her existing claim by clicking on a link and answering some questions. However, claimant thought she had to file a new initial claim for unemployment insurance benefits, which she attempted to do. The online system rejected claimant's attempt to file a new initial claim, and claimant did not click the link to restart her existing claim or complete the process of making a weekly claim for benefits.

(8) In May 2020, claimant contacted the Department, reached a Department representative, and restarted her existing claim. On May 27, 2021, claimant claimed benefits for the weeks including October 4, 2020 through May 8, 2021 (weeks 41-20 through 18-21), the weeks at issue. The Department did not pay claimant benefits for the weeks at issue.

**CONCLUSIONS AND REASONS:** Claimant filed late claims for benefits for the weeks including October 4, 2020 through May 8, 2021 (weeks 41-20 through 18-21) and is ineligible for benefits for those weeks.

ORS 657.155(1)(b) provides that an unemployed individual shall be eligible to receive benefits with respect to any week only if the individual has made 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 471-030-0045 (January 11, 2018) provides, in relevant part:

(1) As used in these rules, unless the context requires otherwise:

(a) “Continued Claim” means an application that certifies to the claimant’s completion of one or more weeks of unemployment and to the claimant’s status during these weeks. The certification may request benefits, waiting week credit, or non-compensable credit for such week or weeks. A continued claim must follow the first effective week of an initial, additional or reopen claim, or the claimant’s continued claim for the preceding week[.]

\* \* \*

(4) A continued claim must be filed no later than seven days following the end of the week for which benefits, waiting week credit, or noncompensable credit, or any combination of the foregoing is claimed, unless:

(a) The continued claim is for the first effective week of the benefit year, in which case the week must be claimed no later than 13 days following the end of the week for which waiting week credit is claimed[.]

\* \* \*

Because the Department did not pay claimant benefits for the weeks at issue, claimant bears the burden to establish by a preponderance of the evidence that benefits should have been paid. *See Nichols v. Employment Division*, 24 Or App 195, 544 P2d 1068 (1976).

Claimant filed continued claims for weeks 41-20 through 18-21. None of the weeks at issue was the first effective week of claimant’s benefit year. Therefore, under OAR 471-030-0045(4), her continued claims for benefits for weeks 41-20, 42-20, 43-20, 44-20, 45-20, and 46-20 were due by October 17, 2020, October 24, 2020, October 31, 2020, November 7, 2020, November 14, 2020, and November 21, 2020, respectively. Claimant’s continued claims for benefits for weeks 47-20, 48-20, 49-20, 50-20, 51-20, and 52-20 were due by November 28, 2020, December 5, 2020, December 12, 2020, December 19, 2020, December 26, 2020, and January 2, 2021, respectively. Claimant’s continued claims for benefits for weeks 53-20, 01-21, 02-21, 03-21, 04-21, and 05-21 were due by January 9, 2021, January 16, 2021, January 23, 2021, January 30, 2021, February 6, 2021, and February 13, 2021, respectively. Claimant’s continued claims for benefits for weeks 06-21, 07-21, 08-21, 09-21, 10-21, and 11-21 were due by February 20, 2021, February 27, 2021, March 6, 2021, March 13, 2021, March 20, 2021, and March 27, 2021, respectively. Claimant’s continued claims for benefits for weeks 12-21, 13-21, 14-21, 15-21, 16-21, 17-21, and 18-21 were due by April 3, 2021, April 10, 2021, April 17, 2021, April 24, 2021, May 1, 2021, May 8, 2021, and May 15, 2021, respectively.

Claimant did not file a claim for each of the weeks at issue by the timely filing deadline for each week; rather claimant claimed all of the weeks after the seven-day deadline for each respective week had passed. The record shows that claimant filed the claims late because she stopped making weekly claims for benefits after week 38-20 due to her mistaken belief that her claim lacked funds to pay her benefits. Claimant’s late reports after December 14, 2020 were also attributable to the fact that claimant mistakenly thought when she logged on to the online system that she had to file a new initial claim for unemployment insurance benefits, rather than restart her existing claim by clicking the link provided by

the system and answering some questions. Nevertheless, OAR 471-030-0045(4) contains no good-cause exception for failing to file a timely continued claim. Therefore, because claimant filed late claims for the weeks at issue, claimant is not entitled to benefits for weeks 41-20 through 18-21.

**DECISION:** Orders No. 21-UI-177786 and 21-UI-177785 are affirmed.

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

**DATE of Service: December 3, 2021**

**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.

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# 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 ໄດ້ ໂດຍປະຕິບັດຕາມຄໍາແນະນໍາທີ່ບອກໄວ້ຢູ່ຕອນທ້າຍຂອງຄໍາຕັດສິນນີ້.

**Arabic**

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**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.

**Employment Appeals Board - 875 Union Street NE | Salem, OR 97311**  
 Phone: (503) 378-2077 | 1-800-734-6949 | Fax: (503) 378-2129 | TDD: 711  
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