

**EMPLOYMENT APPEALS BOARD DECISION**  
**2021-EAB-1053**

*Affirmed  
Late Claims for Benefits Denied  
Ineligible Weeks 12-21, 13-21, and 16-21*

**PROCEDURAL HISTORY:** On October 21, 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 March 21, 2021 through April 3, 2021 (weeks 12-21 through 13-21) and April 18, 2021 through April 24, 2021 (week 16-21) and therefore was ineligible to receive benefits for those weeks (decision # 73246). Claimant filed a timely request for hearing. On November 22, 2021, ALJ Mott conducted a hearing, and on November 24, 2021 issued Order No. 21-UI-180507, affirming decision # 73246. On December 8, 2021, claimant filed an application for review with the Employment Appeals Board (EAB).

**FINDINGS OF FACT:** (1) On December 8, 2019, claimant filed an initial claim for unemployment insurance benefits. The Department determined claimant had a valid claim for benefits with a first effective week of December 8, 2019 through December 14, 2019 (week 50-19).

(2) On Saturday March 27, 2021, claimant used the Department's online claims system to claim benefits for the week of March 14, 2021 through March 20, 2021 (week 11-21). When someone claims a week of benefits on a weekend day, the online system does not recognize that the weekly claim was made until the system processes at the end of the next business day.

(3) The next day, Sunday March 28, 2021, claimant attempted to use the Department's online system to claim the week of March 21, 2021 through March 27, 2021 (week 12-21). When claimant attempted to claim week 12-21, the online system had not yet processed and therefore did not recognize that claimant had claimed week 11-21. As a result, the online system deemed there to be a break in continuous weekly claims and prompted claimant to restart her claim before she could claim week 12-21. An individual can restart their claim through the online system by clicking a link and answering some questions. Claimant tried to restart her claim but was unable to do so because of either cell phone user error or poor internet service, and week 12-21 went unclaimed.

(4) On April 5, 2021, claimant attempted to use the Department's online system to claim the week of March 28, 2021 through April 3, 2021 (week 13-21). Although the online system had by this time processed claimant's claim for week 11-21, the system prompted her to restart her claim before she could claim week 13-21 because she had not claimed week 12-21. Claimant continued having difficulty using her cell phone to restart her claim through the online system. Claimant tried to call the Department for assistance but could not get through due to large call volumes. Claimant tried contacting her local Department office for assistance but the office was closed due to the COVID-19 pandemic. Claimant was not able to restart her claim and week 13-21 went unclaimed.

(5) On April 29, 2021, claimant attempted to use the Department's online system to claim the week of April 18, 2021 through April 24, 2021 (week 16-21). The system prompted claimant to restart her claim before she could claim week 16-21. Claimant continued having difficulty using her cell phone to restart her claim through the online system. Claimant again tried to call the Department for assistance but could not get through due to large call volumes. Claimant again tried contacting her local Department office for assistance but the office remained closed due to the COVID-19 pandemic. Claimant was not able to restart her claim and week 16-21 went unclaimed.

(6) On or shortly after May 2, 2021, claimant restarted her claim successfully using the online system.

(7) On June 9, 2021, claimant called the Department and reached a representative. With the representative's assistance, claimant claimed benefits for weeks 12-21, 13-21 and 16-21, 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 March 21, 2021 through April 3, 2021 (weeks 12-21 through 13-21) and April 18, 2021 through April 24, 2021 (week 16-21) 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[.]

\* \* \*

As directed by the Director, a continued claim must be filed in person at any Employment Department office in the state of Oregon, by United States mail, by fax, by internet, or by telephone. OAR 471-030-0045(3)(a)-(e). 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 12-21, 13-21, and 16-21. None of the weeks at issue was the first effective week of claimant's benefit year. Therefore, under OAR 471-030-0045(4), claimant had to file her continued claim for benefits for week 12-21 between March 28, 2021 and April 3, 2021.

Claimant had to file her continued claim for benefits for week 13-21 between April 4, 2021 and April 10, 2021. Claimant had to file her continued claim for benefits for week 16-21 between April 25, 2021 and May 1, 2021. Claimant did not file a continued claim for any of the weeks at issue by the timely filing deadline for each respective week; rather, claimant claimed the weeks on June 9, 2021, after the seven-day deadline for each respective week had passed.

The record shows that the Department's online claims system required claimant to restart her claim before she could use it to file claims for benefits for the weeks at issue. The record further shows that the first time the online system prompted claimant to restart her claim, on March 28, 2021, a restart was unnecessary because claimant had claimed the previous week but the system did not recognize that because it had not yet processed the previous week's claim. The record shows additionally that upon receiving prompts to restart her claim, claimant had difficulty using her cell phone to complete the required restart and that her efforts to get assistance by calling the Department or contacting her local Department office were unsuccessful. Nevertheless, claimant was able to use the online system to restart her claim on or shortly after May 2, 2021. OAR 471-030-0045(4) contains no good-cause exception for failing to file a timely continued claim. Because claimant filed late claims for the weeks at issue, claimant is not entitled to benefits for weeks 12-21, 13-21, and 16-21.

**DECISION:** Order No. 21-UI-180507 is affirmed.

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

**DATE of Service: January 13, 2022**

**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.

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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 – 本判决会影响您的失业救济金。如果您不明白本判决，请立即联系就业上诉委员会。如果您不同意此判决，您可以按照该判决结尾所写的说明，向俄勒冈州上诉法院提出司法复审申请。

## 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 – សេចក្តីសម្រាបនេះមានដលប់ពាល់ដល់អត្ថប្រយោជន៍គ្មានការងារធ្វើរបស់លោកអ្នក។ ប្រសិនបើលោកអ្នកមិនយល់អំពីសេចក្តីសម្រាបនេះ សូមទាក់ទងគណៈកម្មការខ្លួនណាការងារភ្លាមឱ។ ប្រសិនបើលោកអ្នកមិនយល់ស្របចំពោះសេចក្តីសម្រាបនេះទេ លោកអ្នកអាចជាក់ពាក្យបីដែលស្ថិតនៅទីតាំងរបស់ខ្លួន និងការពិនិត្យរបស់ខ្លួន ដើម្បីរួចរាល់ពីការងារខ្លួនណាបន្ទាន់។

Laotian

ເອົາໃຈໄສ – ຄໍາຕັດສິນນີ້ມີຜົນກະທົບຕໍ່ກັບເງິນຊ່ວຍເຫຼືອການຫວ່າງງານຂອງທ່ານ. ຖ້າທ່ານບໍ່ເຂົ້າໃຈຄໍາຕັດສິນນີ້, ກະລຸນາຕິດຕໍ່ຫາຄະນະກຳມະການອຸທອນການຈ້າງງານໃນທັນທີ. ຖ້າທ່ານບໍ່ເຫັນດີນໍາຄໍາຕັດສິນນີ້, ທ່ານສາມາດຢືນຄໍາຮ້ອງຂໍການທີບຫວຸນຄໍາຕັດສິນນຳສານອຸທອນລັດ Oregon ໄດ້ໂດຍປະຕິບັດຕາມຄໍາແຮງນີ້ທີ່ໄກ້ເວັ້ນຢ່າງຂອງຄໍາຕັດສິນນີ້.

Arabic

هذا القرار قد يؤثر على منحة البطالة الخاصة بك، إذا لم تفهم هذا القرار، إتصل بمجلس منازعات العمل فوراً، وإذا كنت لا توافق على هذا القرار، يمكنك رفع شكوى للمرجعة القانونية بمحكمة الاستئناف بأورغون و ذلك باتباع الإرشادات المدرجة أسفل القرار.

Farsi

توجه - این حکم بر مزایای بیکاری شما تاثیر می‌گذارد. اگر با این تصمیم موافق نیستید، بلافصله با هیأت فرجم خواهی استخدام تماس بگیرید. اگر از این حکم رضایت ندارید، می‌توانید با استفاده از دستور العمل موجود در پیان آن، از دادگاه تجدید نظر اورگان درخواست تجدید نظر کنید.

**Employment Appeals Board** - 875 Union Street NE | Salem, OR 97311  
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[www.Oregon.gov/Employ/eab](http://www.Oregon.gov/Employ/eab)

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