

**EMPLOYMENT APPEALS BOARD DECISION**  
**2022-EAB-0211**

*Modified*  
*Eligible ~ Weeks 40-21 through 43-21*

**PROCEDURAL HISTORY:** On December 10, 2021, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant did not actively seek work from October 3, 2021 through October 30, 2021 (weeks 40-21 through 43-21) and was ineligible for benefits for those weeks (decision # 182343). Claimant filed a timely request for hearing. On January 19, 2022, ALJ Ramey conducted a hearing, and on January 24, 2022 issued Amended Order No. 22-UI-184639, modifying decision # 182343 by concluding that claimant did actively seek work for the weeks including October 3, 2021 through October 23, 2021 (weeks 40-21 through 42-21) and was eligible to receive benefits for those weeks, but that claimant did not actively seek work for the weeks from October 24, 2021 through October 30, 2021 (week 43-21) and was not eligible to receive benefits for that week.<sup>1</sup> On February 7, 2022, claimant filed an application for review with the Employment Appeals Board (EAB).

**EVIDENTIARY MATTER:** EAB has considered additional evidence when reaching this decision under OAR 471-041-0090(1)(a) (May 13, 2019) because it is necessary to complete the record. The additional evidence consists of a copy of a notebook excerpt, which includes claimant's written argument and legibly depicts claimant's work seeking activities during weeks 40-21 through 43-21, and has been marked as EAB Exhibit 1, and a copy provided to the parties with this decision. Any party that objects to our admitting EAB Exhibit 1 must submit such objection to this office in writing, setting forth the basis of the objection in writing, within ten days of our mailing this decision. OAR 471-041-0090(2). Unless such objection is received and sustained, the exhibit will remain in the record.

**FINDINGS OF FACT:** (1) On September 27, 2021, claimant filed an initial claim for unemployment insurance benefits. The Department determined that claimant's labor market area was Waldport, Oregon.

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<sup>1</sup> Amended Order No. 22-UI-184639 corrected Order No. 22-UI-184607, issued on January 21, 2022, to specify the weeks at issue and to add certain omitted language for additional clarity. Amended Order 22-UI-184639 at 1-2, 5. The two orders are otherwise substantially the same.

(2) Claimant claimed benefits for the weeks including October 3, 2021 through October 30, 2021 (weeks 40-21 through 43-21). These are the weeks at issue. When making her weekly claims during the weeks at issue, claimant failed to provide her work search information with respect to each week claimed. Nevertheless, claimant generally sought work in Waldport area grocery stores, pharmacies, and gas stations. Claimant documented her work-seeking activities using a notebook. The Department paid claimant benefits for each of these weeks.

(3) From October 3, 2021 to October 9, 2021 (week 40-21), claimant contacted employers, Fred Meyer and Safeway, and inquired about work opportunities at each location. Claimant also conducted three work-seeking activities, which included updating her resume, searching job listings on Craigslist and searching job listings on Angie's list.

(4) From October 10, 2021 to October 16, 2021 (week 41-21), claimant contacted employers, Ray's Food Place and Hi-School Pharmacy, and inquired about work opportunities at each location. Claimant also conducted three work-seeking activities, which included searching job listings on Jobs.com, searching job listings on Craigslist, and searching job listings on Angie's list.

(5) From October 17, 2021 to October 23, 2021 (week 42-21), claimant contacted employers, Joe's General Store and Shell Gas Station, and inquired about work opportunities at each location. Claimant also conducted three work-seeking activities, which included searching job listings on Jobs.com, searching job listings on Craigslist, and searching job listings on Angie's list.

(6) From October 24, 2021 to October 30, 2021 (week 43-21), claimant contacted employers, Enough Store and Hi-School Pharmacy, and inquired about work opportunities at each location. Claimant also conducted three work-seeking activities, which included searching job listings in the newspaper, searching job listings on Craigslist, and searching job listings on Angie's list.

(7) On December 6, 2021, an adjudicator from the Department contacted claimant based on her failure to provide work searches with her weekly claims. Claimant told the adjudicator that she had looked for work during the weeks at issue and the two agreed that claimant would call back with the work search information. The adjudicator did not hear back from claimant. Claimant had attempted to call the adjudicator back for the next two weeks but had been calling the wrong phone number.

**CONCLUSIONS AND REASONS:** Claimant actively sought work during weeks 40-21 through 43-21 and is eligible for 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). With few exceptions that do not apply here, to be actively seeking work as required under ORS 657.155(1)(c), an individual "must conduct at least five work-seeking activities per week," with two of the five work-seeking activities being direct contact with an employer who might hire the individual. Temporary OAR 471-030-0036(4)(a) (September 26, 2021 through March 24, 2022). "Direct contact" means "making contact with an employer . . . to inquire about a job opening or applying for job openings in the manner required by the hiring employer." Temporary OAR 471-030-0036(4)(a)(B).

The only disputed issue is whether claimant actively sought work during week 43-21. At hearing, claimant testified consistent with her December 6, 2021 statement to the Department's adjudicator that she "absolutely" conducted work-seeking activities during the weeks at issue. Transcript at 9. The record shows that claimant participated in the January 19, 2022 hearing while on a work break but that she had inadvertently forgotten to bring her notebook to work with her that day. Transcript at 11. Because claimant used her notebook to document her relevant work-seeking efforts, claimant had difficulty in the absence of her notebook providing detailed testimony on her work-seeking activities during the weeks at issue. Transcript at 11. As a result, the Department recommended, and the ALJ agreed, that the hearing record should remain open for one day to allow claimant to submit her notebook entries, which claimant subsequently did, via fax, in a timely manner. Transcript at 13-14; Amended Order No. 22-UI-184639 at 1. Due to fax-related and ink-related difficulties, the notebook entries that claimant submitted were blank with respect to week 43-21 and the order under review determined that claimant had not provided a work search history for week 43-21. EAB Exhibit 1; Amended Order No. 22-UI-184639 at 2.

However, the legible copy of claimant's relevant notebook entry corroborates claimant's testimony that during week 43-21 claimant conducted five work-seeking activities, with two of the five work-seeking activities being direct contact with employers who might hire her. EAB Exhibit 1. Accordingly, claimant actively sought work during weeks 40-21 through 43-21 and is eligible for benefits for those weeks.

**DECISION:** Order No. 22-UI-184639 is modified, as outlined above.

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

**DATE of Service: April 8, 2022**

**NOTE:** This decision modifies an order that denied benefits. Please note that payment of benefits, if any are owed, may take approximately a week for the Department to complete.

**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](https://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**

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

**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**  
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