

**EMPLOYMENT APPEALS BOARD DECISION**  
**2022-EAB-0263**

*Modified*  
*Eligible Week 12-20*  
*Ineligible Weeks 13-20 through 19-20*

**PROCEDURAL HISTORY:** On December 17, 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 from March 15, 2020 through May 9, 2020 (weeks 12-20 through 19-20) and therefore was ineligible to receive benefits for those weeks (decision # 95816). Claimant filed a timely request for hearing. On January 31, 2022, ALJ Wardlow conducted a hearing, and on February 3, 2022 issued Amended Order No. 22-UI-185534,<sup>1</sup> affirming decision # 95816. On February 23, 2022, claimant filed an application for review with the Employment Appeals Board (EAB).

**WRITTEN ARGUMENT:** EAB considered claimant's written argument when reaching this decision. Claimant asserted that the hearing proceedings were unfair or the ALJ was biased. EAB reviewed the hearing record in its entirety, which shows that the ALJ inquired fully into the matters at issue and gave all parties reasonable opportunity for a fair hearing as required by ORS 657.270(3) and (4), and OAR 471-040-0025(1) (August 1, 2004).

**FINDINGS OF FACT:** (1) On October 31, 2020, claimant filed an initial claim for Pandemic Unemployment Assistance (PUA) benefits. On the same day, claimant filed a weekly claim for PUA benefits for the week of March 15, 2020 through March 21, 2020 (week 12-20).<sup>2</sup>

<sup>1</sup> ALJ Wardlow originally issued Order No. 22-UI-185339 on February 1, 2022. Amended Order No. 22-UI-185534 replaced Order No. 22-UI-185339 and corrected typographical errors made in the original order.

<sup>2</sup> EAB has taken notice of this fact, which is contained in Employment Department records. OAR 471-041-0090(1) (May 13, 2019). Any party that objects to our taking notice of this information must submit such objection to this office in writing,

(2) On December 11, 2020, the Department sent claimant a Notice of Determination for Pandemic Unemployment Assistance concluding that claimant was not eligible for PUA benefits. Had claimant been eligible for PUA benefits, the claim would have been effective February 2, 2020.

(3) On August 13, 2021, claimant spoke with a representative from the Department, who informed claimant that she did not qualify for PUA benefits, but that she was eligible for a regular unemployment insurance (regular UI) claim.

(4) On September 18, 2021, claimant claimed PUA benefits for the weeks from March 22, 2020 through May 9, 2020 (weeks 13-20 through 19-20).

(5) On December 6, 2021, claimant filed an initial application for regular UI benefits. The Department determined that claimant had a monetarily valid claim for regular UI benefits, and subsequently transferred several of the weeks of benefits that claimant had claimed under the PUA program to claimant's regular UI claim, including weeks 12-20 through 19-20.<sup>3</sup> These are the weeks at issue. The Department did not pay claimant benefits for any of the weeks at issue.

**CONCLUSIONS AND REASONS:** Claimant filed a timely claim for benefits for week 12-20 and therefore is eligible for benefits for that week. Claimant filed late claims for benefits for weeks 13-20 through 19-20 and therefore is ineligible for benefits during those weeks.

OAR 471-030-0040 (January 11, 2018) provides:

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

\* \* \*

(b) An "initial claim" is a new claim that is a certification by a claimant completed as required by OAR 471-030-0025 to establish a benefit year or other eligibility period;

\* \* \*

(e) "Backdating" occurs when an authorized representative of the Employment Department corrects, adjusts, resets or otherwise changes the effective date of an initial, additional or reopened claim to reflect filing in a prior week. Backdating may occur based upon evidence of the individual's documented contact on the prior date with the Employment Department or with any other state Workforce agency, or as otherwise provided in this rule.

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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 noticed fact will remain in the record.

<sup>3</sup> EAB has taken notice of this fact, which is contained in Employment Department records. OAR 471-041-0090(1) (May 13, 2019). Any party that objects to our taking notice of this information 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 noticed fact will remain in the record.

\* \* \*

Furthermore, OAR 471-030-0045 (January 11, 2018), provides:

(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[.]

\* \* \*

The order under review found that claimant originally had claimed PUA benefits for weeks 13-20 through 19-20 on September 18, 2021, and then, after having learned that she was eligible for regular UI benefits, claimed regular UI benefits for weeks 12-20 through 19-20 on December 14, 2021. Amended Order No. 22-UI-185534 at 1–2. In fact, the record shows that claimant first claimed PUA benefits for week 12-20 on October 31, 2020, that she claimed PUA benefits for weeks 13-20 through 19-20 on September 18, 2021, and that the Department transferred all of claimant’s weekly PUA claims for the weeks at issue to her regular UI claim in December 2021.

This distinction is relevant because, as the Department’s witness alluded to in her testimony, weekly claims for PUA benefits filed prior to December 27, 2020 were eligible to be backdated to February 2, 2020, and the Department would therefore have considered the claim for PUA benefits for week 12-20 to be timely.<sup>4</sup> Transcript at 9. When the Department subsequently notified claimant that she was eligible for regular UI benefits, and claimant filed an initial claim for regular UI benefits, the Department transferred to her regular UI claim the weeks of PUA benefits that claimant had previously claimed. Thus, because the weekly claim for week 12-20 was timely when claimant filed it, it remained timely when the Department transferred it to claimant’s regular UI claim more than a year later. As such, claimant is eligible for benefits for week 12-20.

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<sup>4</sup> See generally U.S. Dep’t of Labor, Unemployment Insurance Program Letter No. 16-20, Change 4 (January 8, 2021).

However, the order under review correctly concluded that claimant did not file timely weekly claims for weeks 13-20 through 19-20. None of these weeks were the first effective week of claimant's claim. Therefore, under OAR 471-030-0045(4), claimant must have made weekly claims for each of those weeks no more than seven days following the end of each week in order for them to have been claimed timely. Week 19-20, the last of those weeks, ended on May 9, 2020. Thus, claimant must have filed a weekly claim for week 19-20 no later than May 16, 2020. Because claimant did not file weekly claims for *any* of weeks 13-20 through 19-20 until September 18, 2021, claimant's claims for benefits for those weeks were late. OAR 471-030-0045 contains no good-cause exception for filing a late claim for benefits. Claimant therefore is not eligible for benefits for weeks 13-20 through 19-20.

**DECISION:** Amended Order No. 22-UI-185534 is modified, as outlined above.

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

**DATE of Service:** April 27, 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](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.

**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.

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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**  
 Phone: (503) 378-2077 | 1-800-734-6949 | Fax: (503) 378-2129 | TDD: 711  
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