

**EMPLOYMENT APPEALS BOARD DECISION**  
**2022-EAB-0989**

*Affirmed*

*Ineligible for Pandemic Unemployment Assistance Weeks 14-20 through 36-20*

**PROCEDURAL HISTORY:** On January 13, 2022, the Oregon Employment Department (the Department) served a Notice of Determination for Pandemic Unemployment Assistance (PUA) concluding that claimant was eligible for PUA benefits effective December 6, 2020. On February 2, 2022, the January 13, 2022 PUA determination became final without claimant having filed a request for hearing. On March 28, 2022, claimant filed a late request for hearing. ALJ Kangas considered claimant's request, and on June 29, 2022 issued Order No. 22-UI-197172, dismissing the request as late, subject to claimant's right to renew the request by responding to an appellant questionnaire by July 13, 2022. On July 9, 2022, claimant filed a timely response to the appellant questionnaire. On August 11, 2022, the Office of Administrative Hearings (OAH) mailed a letter stating that Order No. 22-UI-197172 was vacated and that a new hearing would be scheduled to determine whether claimant's late request for hearing should be allowed and, if so, the merits of the January 13, 2022 PUA determination.

On August 26, 2022, the Department served a Notice of Determination for PUA concluding that claimant was not eligible for PUA benefits from March 29 through September 5, 2020 (weeks 14-20 through 36-20).<sup>1</sup> On August 31, 2022, ALJ Frank conducted a hearing. At the start of the hearing prior to taking evidence, ALJ Frank offered to treat claimant's appeal as an appeal of the August 26, 2022 PUA determination that denied claimant benefits for weeks 14-20 through 36-20.<sup>2</sup> Claimant agreed to do so, and the Department representative stated that was acceptable to the Department.<sup>3</sup> ALJ Frank then conducted a hearing on the merits of the August 26, 2022 PUA determination. On September 8, 2022, ALJ Frank issued Order No. 22-UI-202272, affirming the August 26, 2022 PUA determination. On September 27, 2022, claimant filed an application for review of Order No. 22-UI-202272 with the Employment Appeals Board (EAB).

**WRITTEN ARGUMENT:** EAB considered claimant's written argument when reaching this decision.

<sup>1</sup> See Exhibit 4.

<sup>2</sup> Audio Record at 2:37 through 3:07.

<sup>3</sup> Audio record at 2:01 through 3:20, 13:04; 1:20 through 2:00.

**FINDINGS OF FACT:** (1) Claimant was scheduled to begin an internship that was to start in late March 2020 and end in early September 2020. On March 24, 2020, the company offering the internship advised claimant that the internship was postponed until possibly as late as 2021 “depend[ing] on how things proceed with the Corona Virus [*sic*] this year and then how the business recuperates from this pandemic.” Exhibit 2 at 2. On June 18, 2020, the company told claimant that no interns would be on boarded in 2020 and “[w]e will see what our outlook is like for 2021 in the November timeframe.” Exhibit 2 at 3. In January 2021, claimant communicated with the organization that had arranged the internship with the company. Claimant discussed the matter with the organization and “kind of came to the conclusion that the internship was not going to happen.” Audio Record at 19:01.

(2) On March 8, 2021, claimant filed an initial application for PUA benefits. The Department backdated the first effective week of the initial PUA claim to December 6, 2020, the earliest point it was allowed to do so under federal law.

(3) Thereafter, claimant retroactively claimed PUA benefits for the weeks from March 29, 2020 through September 5, 2020 (weeks 14-20 through 36-20), the weeks at issue. The Department did not pay claimant benefits for the weeks at issue.

**CONCLUSIONS AND REASONS:** Claimant was not eligible for PUA benefits for the weeks from March 29, 2020 through September 5, 2020 (weeks 14-20 through 36-20).

Under the CARES Act, 15 U.S.C. Chapter 116, to be eligible to receive PUA benefits, an individual must be a “covered individual” as that term is defined by the Act. 15 U.S.C. § 9021(a)(3). In addition, Section 201(f) of the Continued Assistance for Unemployed Workers Act of 2020 (“CAA”),<sup>4</sup> requires that if an individual files their initial PUA claim after December 27, 2020 the initial claim may be backdated to an effective date no earlier than December 6, 2020. U.S. Dep’t of Labor, Unemployment Insurance Program Letter No. 16-20, Change 4 (January 8, 2021), at I-18–I-19. The effect of allowing backdating of the initial PUA claim to no earlier than December 6, 2020 is that PUA benefits for weeks that occurred prior to December 6, 2020 are not payable. *See* U.S. Dep’t of Labor, Unemployment Insurance Program Letter No. 16-20, Change 5, (February 25, 2021) at 13 (“For example, if an individual files a new PUA claim after [February 25, 2021] . . . absent a PUA claim already being on file and consistent with the Continued Assistance Act, the claim effective date may not be any earlier than December 1, 2020 (weeks of unemployment beginning on or after December 6, 2020), and *retroactive benefits may not be awarded prior to that date.*”) (emphasis added).

Here, claimant filed his initial PUA application on March 8, 2021 and the Department backdated it to December 6, 2020, the earliest date it was allowed to do so under the CAA. Claimant then claimed benefits for the weeks from March 29, 2020 through September 5, 2020 (weeks 14-20 through 36-20). However, per the CAA and U.S. Department of Labor guidance, because weeks 14-20 through 36-20 occurred prior to December 6, 2020, they were not payable. As a result, claimant was not eligible to receive PUA benefits for the weeks at issue.

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<sup>4</sup> The Consolidated Appropriations Act, 2020, including Division N, Title II, Subtitle A, the Continued Assistance for Unemployed Workers Act of 2020 was signed into law on December 27, 2020.

In claimant's written argument, claimant asserted that he did not know his internship was canceled until January 2021 so "there was no reasonable way for me to have met the December 27, 2020 filing deadline for my claim." Written Argument at 1. However, the record shows that on March 24, 2020, the company that had offered claimant an internship informed him that his internship was postponed indefinitely as of that date. Exhibit 2 at 2. Further, on June 18, 2020, the company told claimant that no interns would be on boarded in the calendar year of 2020. Exhibit 2 at 3. These advisements were sufficient to put claimant on notice that he would not be starting his internship in 2020, and the record does not show that anything prevented claimant from filing his initial PUA application prior to December 27, 2020. For instance, claimant could have filed his initial PUA application on March 24, 2020 (when he first learned of the indefinite postponement) or on June 18, 2020 (when he learned that there would be no internship for the calendar year of 2020). In light of this evidence, claimant had ample opportunity to file his initial PUA application prior to December 27, 2020.

For these reasons, claimant was not eligible for PUA benefits during the weeks at issue, weeks 14-20 through 36-20.

**DECISION:** Order No. 22-UI-202272 is affirmed.

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

**DATE of Service:** December 9, 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.

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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 ໄດ້ໂດຍປະຕິບັດຕາມຄໍາແນະນໍາທີ່ບອກໄວ້ຢູ່ຕອນທ້າຍຂອງຄໍາຕັດສິນນີ້.

**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 الإستئناف 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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