

**EMPLOYMENT APPEALS BOARD DECISION**  
**2024-EAB-0630**

*Affirmed*  
*Request for Hearing Dismissed ~ No Justiciable Controversy*

**PROCEDURAL HISTORY:** On June 20, 2024, the Oregon Employment Department (the Department) served notice of an administrative decision allowing claimant's request to backdate their claim to March 10, 2024 (decision # L0004626720). Claimant filed a timely request for hearing. ALJ Kangas considered the request, and on August 5, 2024, issued Order No. 24-UI-261524, dismissing the request because it did not present a justiciable controversy. On August 23, 2024, claimant filed an application for review with the Employment Appeals Board (EAB).

**WRITTEN ARGUMENT:** EAB considered claimant's argument in reaching this decision. The argument did not address the merits of Order No. 24-UI-261524 or decision # L0004626720. Instead, the argument disputed the denial of benefits for the weeks of March 31, 2024, through April 27, 2024 (weeks 14-24 through 17-24), which are not at issue in this appeal.

The Department's records suggest that claimant was denied benefits for weeks 14-24 through 17-24 based on decision # L0006418853, issued April 2, 2024, for failing to register for work. Claimant filed a late request for hearing on decision # L0006418853, which was dismissed on June 3, 2024, subject to claimant's right to renew the request by responding to an appellant questionnaire, and the dismissal order became final on June 24, 2024, without claimant having filed a response to the questionnaire or an application for review with EAB. If claimant desires EAB review of that dismissal order, Order No. 24-UI-255621, claimant must file a late application for review of the order with EAB.<sup>1</sup>

**FINDING OF FACT:** (1) On June 18, 2024, claimant requested that the Department backdate their claim for unemployment insurance benefits to March 10, 2024. On June 20, 2024, the Department issued decision # 0004626720, which allowed the request. Claimant subsequently claimed benefits for

<sup>1</sup> A late application for review of Order No. 24-UI-255621 must include an explanation of why it was not filed by the June 24, 2024, deadline, and should also include an explanation of the factors that prevented timely filing of the request for hearing on decision # L0004626720, which was due by April 22, 2024, and when those factors stopped. *See* OAR 471-041-0070 (May 13, 2019).

the week of March 10, 2024, through March 16, 2024 (week 11-24). This is the week at issue. The Department allowed claimant waiting week credit for the week at issue.<sup>2</sup>

**CONCLUSIONS AND REASONS:** Claimant’s request for hearing is dismissed for failing to present a justiciable controversy.

ORS 657.270(7)(a)(G) provides, in relevant part, that an ALJ may dismiss a request for hearing when “[t]he request is made by a person who is not entitled to a hearing[.]” OAR 471-040-0035(3)(e) (August 1, 2004) provides that an ALJ may dismiss a request for hearing when “[t]he request for hearing is made by a person not entitled to a hearing on the merits or is made with request to a determination or decision of the Director or authorized representative with respect to which there is no lawful authority to request a hearing.”

Order No. 24-UI-261524 dismissed claimant’s request for hearing on decision # L0004626720 because it concluded that claimant was not entitled to a hearing. Order No. 24-UI-261524 at 2. Decision # L0004626720 allowed claimant’s request to backdate their claim, permitting claimant to then claim benefits for the week affected by the request, week 11-24. Claimant ultimately received waiting week credit for week 11-24. Decision # L0004626720 was therefore fully favorable to claimant, and no further benefit could be achieved through requesting a hearing on the decision. As a hearing would have had no practical effect on claimant’s rights, the request for hearing presented no justiciable controversy to resolve. *See Barcik v. Kubiacyk*, 321 Or 174, 895 P2d 765 (1995). In the absence of a justiciable controversy, claimant is not entitled to a hearing, and the request for hearing was therefore properly dismissed in accordance with OAR 471-040-0035(3)(e).

**DECISION:** Order No. 24-UI-261524 is affirmed.

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

**DATE of Service:** September 11, 2024

**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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<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, 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.

You can access the survey using a computer, tablet, or smartphone. If you are unable to complete the survey online and need a paper copy of the survey, please contact our office.



# 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.

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