

**EMPLOYMENT APPEALS BOARD DECISION**  
**2024-EAB-0634**

*Affirmed*  
*Ineligible Week 26-24*

**PROCEDURAL HISTORY:** On July 16, 2024, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant was not available for work during the week of June 23, 2024, through June 29, 2024 (week 26-24) and was therefore ineligible to receive unemployment insurance benefits for that week (decision # L0005183681). Claimant filed a timely request for hearing. On August 5, 2024, ALJ Chiller conducted a hearing at which the Department failed to appear, and on August 14, 2024, issued Order No. 24-UI-262438, affirming decision # L0005183681. On September 2, 2024, claimant filed an application for review with the Employment Appeals Board (EAB).

**WRITTEN ARGUMENT:** Claimant's argument contained information that was not part of the hearing record, and did not show that factors or circumstances beyond claimant's reasonable control prevented him from offering the information during the hearing. Under ORS 657.275(2) and OAR 471-041-0090 (May 13, 2019), EAB considered only information received into evidence at the hearing when reaching this decision.

**FINDINGS OF FACT:** (1) On March 17, 2024, claimant filed an initial claim for unemployment insurance benefits that the Department determined was monetarily valid. Claimant claimed benefits for the week of June 23, 2024, through June 29, 2024 (week 26-24). This is the week at issue. The Department did not pay claimant benefits for the week at issue.

(2) Microchip employed claimant as an electronic engineering technician at times including the week at issue. Claimant performed his work in-person in his normal labor market area of Troutdale, Oregon and could not perform his work remotely.<sup>1</sup> The employer underwent a scheduled shutdown of the facility where claimant worked from June 16, 2024, through June 30, 2024. Claimant was temporarily laid off during this time.

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<sup>1</sup> Though the Department did not participate in the hearing, it is reasonable to infer that claimant's normal labor market area was in the city where he both lived and worked.

(3) Claimant left on a pre-planned vacation to Hawaii during the week at issue and was not present in Troutdale during that week. Claimant did not perform or seek work while in Hawaii.

**CONCLUSIONS AND REASONS:** Claimant was not available for work during week 26-24, the week at issue.

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).

For an individual to be considered “available for work” for purposes of ORS 657.155(1)(c), they must be:

(a) Willing to work full time, part time, and accept temporary work opportunities, during all of the usual hours and days of the week customary for the work being sought, unless such part time or temporary opportunities would substantially interfere with return to the individual’s regular employment; and

(b) Capable of accepting and reporting for any suitable work opportunities within the labor market in which work is being sought, including temporary and part time opportunities; and

(c) Not imposing conditions which substantially reduce the individual’s opportunities to return to work at the earliest possible time; and

(d) Physically present in the normal labor market area as defined by [OAR 471-030-0036(6) (March 25, 2022), every day of the week , unless:

(A) The individual is actively seeking work outside his or her normal labor market area; or

(B) The individual is infrequently absent from the normal labor market area for reasons unrelated to work search, for less than half of the week, and no opportunity to work or referral to work was missed by such absence.

\* \* \*

OAR 471-030-0036(3) (March 25, 2022).

Claimant was not available for work during the week at issue because he was not physically present in his normal labor market area for more than half of the week. Claimant testified that he vacationed in Hawaii during the week at issue. Audio Record at 8:50. He was therefore absent from his normal labor market area of Troutdale, Oregon during the majority of the week at issue. Claimant testified that he did not seek work during the week at issue. Audio Record at 9:24. Therefore, the exceptions to the physical presence requirement of OAR 470-030-0036(d) were

not met.<sup>2</sup> Claimant thus did not meet this requirement due to his absence from his normal labor market area and was unavailable for work during the week at issue.

It is important to note that the requirement that a claimant be available for work is distinct from the requirement that they also actively seek work. Claimant asserted that he was not required to seek work during the week at issue because his circumstances were that of “an individual who is temporarily unemployed” as defined in OAR 470-030-0036(5)(b). Audio Record at 10:27. OAR 470-030-0036(5)(b)(A) requires that such an individual be “capable of accepting and reporting for any suitable work with [their regular] employer[.]” Despite the employer’s planned closure making claimant’s recall to work during the week at issue improbable, it is reasonable to infer that claimant would not have been capable of reporting to work in Troutdale during the week at issue if suddenly recalled to work by the employer, as is required by the rule. However, as claimant’s unavailability for work is dispositive of his ineligibility for benefits during the week at issue, this decision does not further address whether claimant also failed to meet the applicable actively seeking work requirements.

For these reasons, claimant was not available for work during the week at issue and is ineligible to receive unemployment insurance benefits for that week.

**DECISION:** Order No. 24-UI-262438 is affirmed.

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

**DATE of Service:** September 20, 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> The other available for work requirements found in OAR 470-030-0036(a)-(c) are not addressed because claimant’s failure to meet the requirement of OAR 470-030-0036(d) determined claimant’s eligibility for benefits.



# 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 desisyong ito.

## 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 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.

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