

EMPLOYMENT APPEALS BOARD DECISION
2025-EAB-0010-R

*Applications For Review of Orders No. 24-UI-277365 and 25-UI-288251 Dimsissed
No Justiciable Controversy*

PROCEDURAL HISTORY: On July 23, 2024, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant was not available for work and was therefore ineligible to receive unemployment insurance benefits effective June 30, 2024, and until the reason for the denial ended (decision # L0005316745).¹ On August 12, 2024, decision # L0005316745 became final without claimant having filed a request for hearing.

On October 24, 2024, claimant filed a late request for hearing. ALJ Kangas considered claimant's request, and on November 25, 2024, issued Order No. 24-UI-274673, dismissing the request as late, subject to claimant's right to renew the request by responding to an appellant questionnaire by December 9, 2024. On December 12, 2024, claimant filed a late response to the appellant questionnaire. On December 19, 2024, ALJ Kangas issued Order No. 24-UI-277365, re-dismissing claimant's late request for hearing without considering claimant's response to the appellant questionnaire because the response was late. On January 3, 2025, claimant filed an application for review of Order No. 24-UI-277365 with the Employment Appeals Board (EAB). On January 28, 2025, EAB issued EAB Decision 2025-EAB-0010, reversing Order No. 24-UI-277365 and remanding the matter for a hearing to determine whether claimant's late request for hearing should be allowed and, if so, the merits of decision # L0005316745.

On March 26, 2025, ALJ Frank conducted a hearing at which the Department failed to appear, and on April 3, 2025, issued Order No. 25-UI-288251, re-dismissing claimant's late request for hearing as without good cause and leaving decision # L0005316745 undisturbed. On April 23, 2025, Order No. 25-UI-288251 became final without claimant having filed an application for review with EAB. On April 25, 2025, claimant filed a late application for review with EAB. On May 2, 2025, EAB reconsidered EAB Decision 2025-EAB-0010 on its own motion. EAB Decision 2025-EAB-0010-R is issued pursuant to EAB's authority under ORS 657.290(3).

¹ Decision # L0005316745 stated that claimant was denied benefits from June 30, 2024 to June 28, 2025. However, decision # L0005316745 should have stated that claimant was ineligible to receive benefits beginning Sunday, June 30, 2024 and until the reason for the denial ended.

Pursuant to OAR 471-041-0095 (October 29, 2006), EAB consolidated its review of Order No. 25-UI-288251 and reconsideration of EAB Decision 2025-EAB-0010. For case-tracking purposes, this decision is being issued in duplicate (EAB Decisions 2025-EAB-0256 and 2025-EAB-0010-R).

FINDINGS OF FACT: (1) Claimant filed an initial claim for unemployment insurance benefits effective June 30, 2024. The Department determined that the claim was monetarily valid with a maximum benefit amount of \$11,570. Claimant claimed benefits for the weeks including June 30, 2024, through July 13, 2024 (weeks 27-24 and 28-24), and September 15, 2024, through March 29, 2025 (weeks 38-24 through 13-25).²

(2) On July 23, 2024, the Department issued decision # L000531645, concluding that claimant was unavailable for work and ineligible to receive benefits effective June 30, 2024, and until the reason for the denial ended. Claimant filed a late request for hearing, and on December 19, 2024, Order No. 24-UI-277365 was issued, dismissing the request as late. Claimant filed an application for review of Order No. 24-UI-277365, and on January 28, 2025, EAB issued EAB Decision 2025-EAB-0010, reversing Order No. 24-UI-277365 and remanding the matter for a hearing to determine whether claimant's late request for hearing should be allowed and, if so, the merits of decision # L000531645.

(3) On April 3, 2025, following the remand hearing, Order No. 25-UI-288251 was mailed to claimant's address of record. The order re-dismissed claimant's late request for hearing as without good cause and left decision # L0005316745 undisturbed. Order No. 25-UI-288251 stated, "You may appeal this decision by filing the attached form Application for Review with the Employment Appeals Board within 20 days of the date that this decision is mailed." Order No. 25-UI-288251 at 3. Order No. 25-UI-288251 also stated on its Certificate of Mailing, "Any appeal from this Order must be filed on or before April 23, 2025, to be timely." On April 23, 2025, Order No. 25-UI-288251 became final without claimant having filed an application for review with EAB. On April 25, 2025, claimant filed a late application for review of Order No. 25-UI-288251 with EAB.

(4) On May 22, 2025, the Department amended decision # L0005316745 to end the indefinite period of ineligibility. The new period of ineligibility resulting from decision # L0005316745 was June 30, 2024, through September 14, 2024 (weeks 27-24 through 37-24). The Department did not pay claimant benefits for weeks 27-24 and 28-24 due to the period of ineligibility imposed by decision # L0005316745, as amended.³

(5) On May 23, 2025, the Department allowed waiting week credit for week 38-24 and paid claimant a total of \$11,570 in benefits for weeks 39-24 through 13-25.⁴

² EAB has taken notice of these facts which are contained in Employment Department records. OAR 471-041-0090(1) (May 13, 2019). Any party that objects to EAB taking notice of this information must send their objection to EAB in writing, stating why they object, within ten days of EAB mailing this decision. OAR 471-041-0090(2). Unless EAB receives and agrees with the objection, the noticed fact(s) will remain in the record.

³ EAB has taken notice of these facts which are contained in Employment Department records. Any party that objects to EAB taking notice of this information must send their objection to EAB in writing, stating why they object, within ten days of EAB mailing this decision. OAR 471-041-0090(2). Unless EAB receives and agrees with the objection, the noticed fact(s) will remain in the record.

⁴ EAB has taken notice of these facts which are contained in Employment Department records. Any party that objects to EAB taking notice of this information must send their objection to EAB in writing, stating why they object, within ten days of

CONCLUSIONS AND REASONS: The applications for review of Orders No. 24-UI-277365 and 25-UI-288251 are dismissed for failure to present a justiciable controversy.

Reconsideration of EAB Decision 2025-EAB-0010. ORS 657.290(3) authorizes the Employment Appeals Board, upon its own motion, to reconsider any previous decision of the Employment Appeals Board, including “the making of a new decision to the extent necessary and appropriate for the correction of previous error of fact or law.”

EAB Decision 2025-EAB-0010 reversed Order No. 24-UI-277365 by concluding that claimant was entitled to a hearing to determine whether her late request for hearing on decision # L0005316745 should be allowed. However, after the issuance of EAB’s decision, the Department amended decision # L0005316745 and paid claimant the maximum benefit on her claim. As explained in greater detail below, these actions effectively rendered claimant’s late request for hearing on decision # L0005316745 moot as it no longer presented a justiciable controversy. Therefore, it is not necessary and appropriate for EAB to reconsider EAB Decision 2025-EAB-0010 to correct errors of fact or law now present due to these events.

Applications for Review of Orders No. 24-UI-277365 and 25-UI-288251. Orders No. 24-UI-277365 and 25-UI-288251 each dismissed claimant’s late request for hearing on decision # L0005316745 as lacking good cause for the late filing. At the time those orders were issued, claimant’s late request for hearing presented a justiciable controversy because, if the request for hearing were allowed and decision # L0005316745 reversed, claimant could have later been found to be eligible for benefits for a period including weeks 27-24 and 28-24.

However, the Department’s records show that on May 22, 2025, it amended decision # L0005316745 to end the period of ineligibility, such that claimant was now ineligible to receive benefits only for the weeks of June 30, 2024, through September 14, 2024 (weeks 27-24 through 37-24), and eligible beginning September 15, 2024 (week 38-24). This means that claimant remains ineligible to receive benefits for weeks 27-24 and 28-24 pursuant to decision # L0005316745, as amended. Nevertheless, on May 23, 2025, claimant was paid benefits for subsequent weekly claims totaling \$11,570, the maximum benefit amount of the claim. Because claimant has now been paid the maximum benefit amount on her claim, allowing the late request for hearing and reversing decision # L0005316745 would not result in the payment of any additional benefits, and therefore further appellate review would afford claimant no additional relief.⁵

Oregon courts follow the principle that a review on appeal may only be provided for justiciable controversies. See, e.g., *Gortmaker v. Seaton*, 252 Or. 440, 442, 450 P.2d 547 (1969). A justiciable controversy exists when the interests of the parties to the action conflict with each other, and the appeal will have some practical effect on the rights of the parties to the controversy. *Barcik v. Kubiacyk*, 321 Or 174, 895 P2d 765 (1995). To show a practical effect on their rights, an appellant must seek “substantive relief” through their appeal. *Krisor v. Henry*, 256 Or. App. 56, 300 P.3d 199 (Or. Ct. App. 2013).

EAB mailing this decision. OAR 471-041-0090(2). Unless EAB receives and agrees with the objection, the noticed fact(s) will remain in the record.

⁵ However, if any subsequent administrative decision were to deny claimant benefits such that she was no longer entitled to the maximum benefit on her claim, claimant’s appeal of decision # L0005316745 would no longer be moot.

Because EAB's review of Orders No. 24-UI-277365 and 25-UI-288251 could not provide substantive relief to claimant, such review would have no practical effect on her rights. Accordingly, there is no justiciable controversy before EAB based upon claimant's applications for review of those orders. Because the matters before EAB present no justiciable controversy, the applications for review of Orders No. 24-UI-277365 and 25-UI-288251 are dismissed and decision # L0005316745, as amended on May 22, 2025, remains undisturbed.

DECISION: Claimant's applications for review of Orders No. 24-UI-277365 and 25-UI-288251 are dismissed.

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

DATE of Service: May 29, 2025

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 stated above**. See ORS 657.282. For forms and information, visit <https://www.courts.oregon.gov/courts/appellate/forms/Pages/appeal.aspx> and choose the appropriate form under "File a Petition for Judicial Review." You may also contact the Court of Appeals by telephone at (503) 986-5555, by fax at (503) 986-5560, or by mail at 1163 State Street, Salem, Oregon 97301.

Please help us improve our service by completing an online customer service survey. To complete the survey, please go to <https://www.surveygizmo.com/s3/5552642/EAB-Customer-Service-Survey>. If you are unable to complete the survey online and wish to have 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 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

Email: appealsboard@employ.oregon.gov

Website: www.Oregon.gov/employ/pages/employment-appeals-board.aspx

The Oregon Employment Department is an equal opportunity employer/program. Auxiliary aids and services are available upon request to individuals with disabilities. Language assistance is available to persons with limited English proficiency at no cost.

El Departamento de Empleo de Oregon es un programa que respeta la igualdad de oportunidades. Disponemos de servicios o ayudas auxiliares, formatos alternos y asistencia de idiomas para personas con discapacidades o conocimiento limitado del inglés, a pedido y sin costo.