

EMPLOYMENT APPEALS BOARD DECISION
2025-EAB-0075

Reversed & Remanded

PROCEDURAL HISTORY: On July 15, 2024, the Oregon Employment Department (the Department) served notice of a Wage and Potential Benefit Report (WPBR) concluding that claimant did not have sufficient hours or earnings in his base year of January 1, 2023 through December 31, 2023 to form a monetarily valid claim (decision # L0005196053). Claimant filed a timely request for hearing on decision # L0005196053. On August 16, 2024, the Department served notice of a WPBR concluding that claimant did not have sufficient hours or earnings in his base year of April 1, 2023 through March 31, 2024 to form a monetarily valid claim (decision # L0005830618). Claimant filed a timely request for hearing on decision # L0005830618. On January 16, 2025, ALJ Goodrich conducted a hearing on both administrative decisions that was interpreted in Palauan, and on January 21, 2025 issued Orders No. 25-UI-280279 and 25-UI-280278, affirming decisions # L0005196053 and L0005830618.

On January 31, 2025, claimant filed applications for review of Orders No. 25-UI-280279 and 25-UI-280278 with the Employment Appeals Board (EAB). Pursuant to OAR 471-041-0095 (October 29, 2006), EAB consolidated its review of Orders No. 25-UI-280279 and 25-UI-280278. For case-tracking purposes, this decision is being issued in duplicate (EAB Decisions 2025-EAB-0075 and 2025-EAB-0076).

FINDINGS OF FACT: (1) On June 14, 2024, claimant filed an initial claim for unemployment insurance benefits with a benefit year ending on June 7, 2025 (“BYE 23-25”). Claimant’s base year for this benefit year was the first through fourth quarters of 2023 (January 1, 2023 through December 31, 2023).¹

¹ 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 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.

(2) On or around July 21, 2024, claimant filed another initial claim for benefits, with a benefit year ending on July 19, 2025 (“BYE 29-25”). Claimant’s base year for this benefit year was the second quarter of 2023 through the first quarter of 2024 (April 1, 2023 through March 31, 2024).²

(3) For the third quarter of 2022 (July 1, 2022 through September 30, 2022), claimant had 360 hours and \$5,400 in earnings reported to the Department by an employer. For the fourth quarter of 2022 (October 1, 2022 through December 31, 2022), claimant had 536 hours and \$8,040 in earnings reported to the Department by an employer.³

(4) Claimant had no hours or earnings reported for any of the calendar quarters between the first quarter of 2023 and the first quarter of 2024, which encompassed claimant’s base years for both BYE 23-25 and BYE 29-25. Based on this, the Department determined that claimant did not have enough hours or earnings in his base year for either benefit year to monetarily qualify for benefits.

CONCLUSIONS AND REASONS: Orders No. 25-UI-280279 and 25-UI-280278 are set aside and these matters remanded for further development of the record.

ORS 657.010 states, in relevant part:

(1) “Base year” means the first four of the last five completed calendar quarters preceding the benefit year.

* * *

(3) “Benefit year” means a period of 52 consecutive weeks commencing with the first week with respect to which an individual files an initial valid claim for benefits, and thereafter the 52 consecutive weeks period beginning with the first week with respect to which the individual next files an initial valid claim after the termination of the individual’s last preceding benefit year except that the benefit year shall be 53 weeks if the filing of an initial valid claim would result in overlapping any quarter of the base year of a previously filed initial valid claim.

ORS 657.150 states, in relevant part:

(1) An individual shall be paid benefits for weeks during the benefit year in an amount that is to be determined by taking into account the individual’s work in subject employment in the base year as provided in this section.

(2)(a) To qualify for benefits an individual must have:

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 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.

³ 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 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.

(A) Worked in subject employment in the base year with total base year wages of \$1,000 or more and have total base year wages equal to or in excess of one and one-half times the wages in the highest quarter of the base year; and

(B) Have earned wages in subject employment equal to six times the individual's weekly benefit amount in employment for service performed subsequent to the beginning of a preceding benefit year if benefits were paid to the individual for any week in the preceding benefit year.

(b) If the individual does not meet the requirements of paragraph (a)(A) of this subsection, the individual may qualify for benefits if the individual has worked a minimum of 500 hours in employment subject to this chapter during the base year.

* * *

(4)(a) An eligible individual's weekly benefit amount shall be 1.25 percent of the total wages paid in the individual's base year. However, such amount shall not be less than the minimum, nor more than the maximum weekly benefit amount.

* * *

(5) Benefits paid to an eligible individual in a benefit year shall not exceed 26 times the individual's weekly benefit amount, or one-third of the base year's wages paid, whichever is the lesser. If such amount is not a multiple of \$1, it shall be computed to the next lower multiple of \$1.

ORS 657.170 states:

(1) If the Director of the Employment Department finds that during the base year of the individual any individual has been incapable of work during the greater part of any calendar quarter, such base year shall be extended a calendar quarter. Except as provided in subsection (2) of this section, no such extension of an individual's base year shall exceed four calendar quarters.

(2) If the director finds that during and prior to the individual's base year the individual has had a period of temporary total disability caused by illness or injury and has received compensation under ORS chapter 656 for a period of temporary total disability during the greater part of any calendar quarter, the individual's base year shall be extended as many calendar quarters as necessary to establish a valid claim, up to a maximum of four calendar quarters prior to the quarter in which the illness or injury occurred, if the individual:

(a) Files a claim for benefits not later than the fourth calendar week of unemployment following whichever is the latest of the following dates:

(A) The date the individual is released to return to work by the attending physician, as defined in ORS chapter 656, or a nurse practitioner authorized to provide compensable medical services under ORS 656.245; or

(B) The date of mailing of a notice of claim closure pursuant to ORS chapter 656; and

(b) Files such a claim within the three-year period immediately following the commencement of such period of illness or injury.

(3) Notwithstanding the provisions of this section, benefits payable as a result of the use of wages paid in a calendar quarter prior to the individual's current base year shall not exceed one-third of such wages less benefits paid previously as a result of the use of such wages in computing a previous benefit determination.

OAR 471-030-0023 (January 11, 2018) states:

(1) As used in ORS 657.170, "incapable of work" means inability to engage in any gainful occupation solely because of physical or mental defect, disease or injury as verified in writing by a licensed medical or therapeutic practitioner, or other evidence satisfactory to the Director.

(2) For purposes of applying ORS 657.170(2), where the date of the injury and the date on which claimant became temporarily totally disabled are not the same, the three-year time period for seeking a base year extension shall begin at the start of the claimant's period of temporary total disability, not on the date of the injury.

For each of the two benefits years at issue in these matters, claimant had no earnings or hours reported for his base years. As such, the Department determined that, for both benefit years, claimant was not monetarily eligible for benefits. The orders under review affirmed the Department's determinations. Order No. 25-UI-280279 at 2; Order No. 25-UI-280278 at 2. The record as developed does not support this conclusion.

Despite the fact that claimant had no base-year hours or earnings reported for either BYE, it is possible that claimant could be eligible for an extension of his base year if his circumstances fit the requirements of ORS 657.170 and OAR 471-030-0023. At hearing, the ALJ asked the Department's witness if claimant qualified for a base year extension, and the witness testified that she did not know. Transcript at 5. No further inquiry was made to determine whether claimant qualified for a base year extension. On remand, the ALJ should inquire as to the circumstances which led to claimant's lack of wages in 2023 and the first quarter of 2024 and, based on this information, determine whether claimant is eligible for a base year extension that would allow him to monetarily qualify for benefits.

ORS 657.270 requires the ALJ to give all parties a reasonable opportunity for a fair hearing. That obligation necessarily requires the ALJ to ensure that the record developed at the hearing shows a full and fair inquiry into the facts necessary for consideration of all issues properly before the ALJ in a case. ORS 657.270(3); *see accord Dennis v. Employment Division*, 302 Or 160, 728 P2d 12 (1986). Because further development of the record is necessary for a determination of whether claimant was eligible for

an extension of his base year, Orders No. 25-UI-280279 and 25-UI-280278 are set aside, and these matters are remanded.

DECISION: Orders No. 25-UI-280279 and 25-UI-280278 are set aside, and these matters remanded for further proceedings consistent with this order.

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

DATE of Service: March 5, 2025

NOTE: The failure of any party to appear at the hearing on remand will not reinstate Orders No. 25-UI-280279 and 25-UI-280278 or return these matters to EAB. Only timely applications for review of the subsequent orders will cause these matters to return to EAB.

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 دستورالعمل 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.