

EMPLOYMENT APPEALS BOARD DECISION
2025-EAB-0088

Affirmed
Request to Backdate Initial Claim to Week 48-24 Denied

PROCEDURAL HISTORY: On January 3, 2025, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant's request to backdate his initial claim to November 24, 2024, was denied (decision # L0008110248). Claimant filed a timely request for hearing. On January 23, 2025, ALJ Lucas conducted a hearing, and on January 30, 2025, issued Order No. 25-UI-281576, affirming decision # L0008110248. On February 13, 2025, claimant filed an application for review with the Employment Appeals Board (EAB).

FINDINGS OF FACT: (1) In late 2024, claimant's employer informed claimant and other employees to expect work furloughs for some weeks to come in late fall and winter. Specifically, the employer advised claimant that he would be furloughed the week of November 24, 2024, through November 30, 2024 (week 48-24), and then the weeks of December 22, 2024, through January 4, 2025 (weeks 52-24 and 01-25).

(2) In anticipation of claiming the weeks he would be furloughed, in October 2024, claimant requested a PIN from the Department to create a Frances Online account. Claimant received the PIN and created his Frances Online account on October 26, 2024. Claimant had the option to file an initial claim for unemployment insurance benefits at that time but did not do so.

(3) Claimant understood that the employer's human resources (HR) department told him to file his initial claim for benefits on December 1, 2024. Claimant understood the HR department's instructions were to file his initial claim on that day, and that doing so would mean he would claim benefits for the preceding week, week 48-24, and receive waiting week credit for that week.

(4) Claimant was furloughed as anticipated during week 48-24. Claimant did not file an initial claim or contact the Department for any purpose that week.

(5) Claimant filed an initial claim for benefits on December 1, 2024. The Department concluded that claimant had a monetarily valid claim for benefits with a first effective week of December 1, 2024,

through December 7, 2024 (week 49-24). On or about December 1, 2024, the Department sent him a message that he was eligible to receive benefits as of December 1, 2024.

(6) Because week 48-24 preceded the first effective week of claimant's claim, week 49-24, week 48-24 was not available for claimant to claim. Therefore, claimant did not receive waiting week credit or benefits for that week, despite his understanding based on what the employer's HR department had told him.

(7) Claimant incorrectly interpreted the message the Department sent him on or about December 1, 2024, to mean that he had received waiting week credit for week 48-24, and so claimant "had no reason to question anything" and believed he would receive benefits when he claimed weeks 52-24 through 01-25. Audio Record at 25:25.

(8) Claimant was furloughed as anticipated during the week of December 22, 2024, through December 28, 2024 (week 52-24). On December 29, 2024, claimant claimed week 52-24.

(9) After claimant claimed week 52-24, the Department sent him a message advising that claimant was receiving waiting week credit for that week. Claimant then realized he had not claimed or received waiting week credit for week 48-24.

(10) On December 31, 2024, in order to enable himself to claim week 48-24, claimant requested the Department backdate his initial claim to November 24, 2024. On January 3, 2025, the Department issued decision # L0008110248 denying claimant's request to backdate his initial claim to November 24, 2024.

(11) After week 52-24, claimant became aware that many of his coworkers had also made claiming errors. Claimant's employer's HR department told employees, including claimant, to expect to receive a call from a Department representative to resolve claiming errors. However, claimant was never contacted by anyone.

CONCLUSIONS AND REASONS: Claimant's request to backdate his initial claim to the week of November 24, 2024, through November 30, 2024 (week 48-24) is denied.

ORS 657.155(1)(b) provides that an unemployed individual shall be eligible to receive benefits with respect to any week only if the individual has made a claim for benefits with respect to such week in accordance with ORS 657.260. ORS 657.260(1) provides that claims for benefits shall be filed in accordance with such regulations as the Department may prescribe.

OAR 471-030-0040 (January 11, 2018) provides:

(1) As used in these rules, unless the context requires otherwise:

* * *

(b) An “initial claim” is a new claim that is a certification by a claimant completed as required by OAR 471-030-0025 to establish a benefit year or other eligibility period;

* * *

(e) “Backdating” occurs when an authorized representative of the Employment Department corrects, adjusts, resets or otherwise changes the effective date of an initial, additional or reopened claim to reflect filing in a prior week. Backdating may occur based upon evidence of the individual's documented contact on the prior date with the Employment Department or with any other state Workforce agency, or as otherwise provided in this rule.

* * *

(3) An initial, additional, or reopened claim must be filed prior to or during the first week or series of weeks for which benefits, waiting week credit, or noncompensable credit is claimed and prior to or during the first week of any subsequent series thereafter. An initial claim is effective the Sunday of the calendar week in which it is filed. An authorized representative of the Employment Department will backdate an additional or reopened claim to the calendar week immediately preceding the week in which the request to backdate was made when a claimant requests backdating of the additional or reopened claim.

* * *

Furthermore, OAR 471-030-0045 (January 11, 2018), provides:

(1) As used in these rules, unless the context requires otherwise:

(a) “Continued Claim” means an application that certifies to the claimant’s completion of one or more weeks of unemployment and to the claimant’s status during these weeks. The certification may request benefits, waiting week credit, or non-compensable credit for such week or weeks. A continued claim must follow the first effective week of an initial, additional or reopen claim, or the claimant’s continued claim for the preceding week;

* * *

(4) A continued claim must be filed no later than seven days following the end of the week for which benefits, waiting week credit, or noncompensable credit, or any combination of the foregoing is claimed, unless:

(a) The continued claim is for the first effective week of the benefit year, in which case the week must be claimed no later than 13 days following the end of the week for which waiting week credit is claimed, or

* * *

Under OAR 471-030-0040(3), an initial claim is effective the Sunday of the calendar week in which it is filed. Since claimant filed his initial claim on Sunday December 1, 2024, the first effective week of claimant's claim was the week of December 1, 2024, through December 7, 2024 (week 49-24). The initial claim's first effective week of week 49-24 precluded claimant from claiming the week of November 24, 2024, through November 30, 2024 (week 48-24), because week 48-24 is before week 49-24. Pursuant to OAR 471-030-0040(3), an initial claim must be filed prior to or during the first week for which benefits or waiting week credit is claimed, and under OAR 471-030-0045(1), a continued claim for a week of benefits must follow the first effective week of an initial claim. Therefore, only a successful request to backdate the initial claim to week 48-24 would enable claimant to claim benefits or waiting week credit for week 48-24.

On December 31, 2024, some 30 days after filing his initial claim, claimant requested the Department backdate his initial claim to November 24, 2024. Under certain circumstances, the Department is authorized under OAR 471-030-0040(1)(e) to backdate an initial claim, that is, change the initial claim's effective date to reflect filing in a prior week. However, under that administrative rule, backdating may generally only occur based upon evidence of an individual's documented contact on the prior date with the Department. The record fails to show that claimant contacted the Department at any point during the week of November 24, 2024, through November 30, 2024 (week 48-24), to attempt to file an initial claim or for any other purpose. Therefore, the Department was justified in denying claimant's request to backdate the initial claim to week 48-24.

Claimant created his Frances Online account on October 26, 2024, and had the option to file an initial claim at that time. Had he done so, he would not have been precluded from claiming week 48-24. The record shows that claimant filed his initial claim on December 1, 2024, because he understood his employer's HR Department to have instructed him to do so. It is regrettable that following his employer's instruction resulted in claimant being unable to claim week 48-24. Nevertheless, claimant did not meet the standard to require the Department to grant his backdating request.

Accordingly, claimant's request to backdate his initial claim to the week of November 24, 2024, through November 30, 2024 (week 48-24) is denied.

DECISION: Order No. 25-UI-281576 is affirmed.

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

DATE of Service: March 11, 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.

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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 الاستئناف بأوريغون و ذلك باتباع 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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Website: www.Oregon.gov/employ/pages/employment-appeals-board.aspx

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