

EMPLOYMENT APPEALS BOARD DECISION
2025-EAB-0252

Affirmed
Late Claim for Benefits Denied
Ineligible Week 48-24

PROCEDURAL HISTORY: On January 14, 2025, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant filed a late claim for unemployment insurance benefits for the week of November 24, 2024, to November 30, 2024 (week 48-24) and therefore was ineligible to receive benefits for that week (decision # L0008629042). Claimant filed a timely request for hearing. On April 11, 2025, ALJ Enyinnaya conducted a hearing, and on April 17, 2025, issued Order No. 25-UI-289872, affirming decision # L0008629042. On April 25, 2025, 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. EAB considered any parts of claimant's argument that were based on the hearing record.

FINDINGS OF FACT: (1) On November 18, 2024, claimant filed an initial claim for unemployment insurance benefits. The Department determined claimant had a valid claim for benefits with a first effective week of November 17, 2024, through November 23, 2024 (week 47-24).

(2) Claimant filed his initial claim over the telephone with the assistance of a Department representative. At that time, the Department representative told claimant that to get paid for a week of benefits, he needed to file a weekly claim for that week.

(3) Claimant called and spoke with Department representatives on November 22 and 25, 2024. Claimant called the Department on these occasions to check that he had done everything correctly on his claim. During the calls, the representatives gave claimant the impression that "everything was on track." Transcript at 10.

(4) Claimant wished to receive benefits for the week of November 24, 2024, through November 30, 2024 (week 48-24). This is the week at issue.

(5) Although the calls occurred before week 48-24 ended, claimant mistakenly believed that he had filed a weekly claim for benefits for week 48-24 during his November 22 and 25, 2024 phone calls with the Department. Claimant found the Department's systems to be convoluted and believed that after filing his initial claim he was not prompted to do anything else.

(6) On December 11, 2024, claimant completed the Department's requirement that he verify his identity.

(7) On January 3, 2025, claimant called the Department again and spoke with a representative. The representative filed a weekly claim for week 48-24 on claimant's behalf.

CONCLUSIONS AND REASONS: Claimant filed a late claim for benefits for the week of November 24, 2024, to November 30, 2024 (week 48-24) and is ineligible for benefits for that week.

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 471-030-0045 (January 11, 2018) provides, in relevant part:

(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[.]

* * *

(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[.]

* * *

A continued claim must be filed in person at any Employment Department office in the state of Oregon, by United States mail, by fax, by internet, or by telephone. OAR 471-030-0045(3)(a)-(e). Because the Department did not pay claimant benefits for the weeks at issue, claimant bears the burden to establish by a preponderance of the evidence that benefits should have been paid. *See Nichols v. Employment Division*, 24 Or App 195, 544 P2d 1068 (1976).

Claimant claimed benefits for week 48-24 on January 3, 2025. Week 48-24 was not the first effective week of claimant's claim. Therefore, under OAR 471-030-0045(4), his weekly claim for benefits for week 48-24 was due by December 7, 2024.

The record shows that following his telephone conversations with Department representatives on November 22 and 25, 2024, claimant thought he had done everything correctly and was under the mistaken impression that he had filed a weekly claim for benefits for week 48-24. This was the case even though, as of the dates of the two calls, week 48-24 had not yet ended. The November 22 and 25, 2024 calls did not constitute filing a weekly claim for week 48-24. OAR 471-030-0045(1)(a) defines a continued claim to mean (unless context requires otherwise) "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." As the November 22 and 25, 2024 calls occurred before week 48-24 ended, claimant did not establish that during those calls he had certified to the completion of a week of unemployment and his status for week 48-24. Thus, claimant did not make a weekly claim for week 48-24 during the November 22 and 25, 2024 calls.

In his written argument, claimant argued that filing a weekly claim for week 48-24 by the December 7, 2024, deadline was impossible because he did not verify his identity until December 11, 2024. Claimant's Argument at 3-7. The fact that claimant's identity verification remained pending as of December 7, 2024, would not have prevented claimant from filing a weekly claim for week 48-24 by the December 7, 2024, deadline. If an individual fails to verify their identity by the date the Department requires, they can be denied *payment* for each week claimed until they comply. However, an individual's status as not having verified their identity does not prevent them from actually *claiming* a week of benefits. Claimant also suggested that it was impossible to claim by the December 7, 2024, deadline because his access to Frances Online was limited at that time. Claimant's Argument at 3-7. However, limited access to Frances Online would not have made filing by the December 7, 2024, deadline impossible because weekly claims can also be filed by mail, fax, or by telephone. *See* OAR 471-030-0045(3)(a)-(e). The Department's website contains resources for claiming a week of benefits via Frances Online as well as by phone or by printing and mailing or faxing the claim form.¹

Accordingly, claimant did not file a claim for week 48-24 by the timely filing deadline. Rather, claimant filed his claim for that week late on January 3, 2025, when a Department representative filed the weekly claim on his behalf. The record indicates that claimant found the Department's systems to be convoluted and believed that after filing his initial claim he was not prompted to do anything else. While it is regrettable that claimant was unable to claim week 48-24 in a timely manner, OAR 471-030-0045(4) contains no good-cause exception for failing to file a timely continued claim. Therefore, because claimant filed a late claim for the week at issue, claimant is not entitled to benefits for that week. Claimant is not eligible to receive benefits for week 48-24.

¹ EAB has taken notice of these facts, which are generally knowable facts. OAR 471-041-0090(1). A copy of the information is available to the parties at <https://unemployment.oregon.gov/weekly-claims>. 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.

DECISION: Order No. 25-UI-289872 is affirmed.

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

DATE of Service: May 28, 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 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.