

State of Oregon
Employment Appeals Board
875 Union St. N.E.
Salem, OR 97311

EMPLOYMENT APPEALS BOARD DECISION
2025-EAB-0288

Affirmed
Request to Backdate Denied

PROCEDURAL HISTORY: On March 26, 2025, the Oregon Employment Department (the Department) served notice of an administrative decision denying claimant's request to backdate an additional claim to December 22, 2024 (decision # L0009923866). Claimant filed a timely request for hearing. On May 6, 2025, ALJ Janzen conducted a hearing, and on May 7, 2025, issued Order No. 25-UI-291563, affirming decision # L0009923866. On May 13, 2025, claimant filed an application for review with the Employment Appeals Board (EAB).

FINDINGS OF FACT: (1) On June 18, 2024, claimant filed an initial claim for unemployment insurance benefits that the Department determined was monetarily valid based on wages earned from an educational employer, and had a benefit year expiration of June 14, 2025. Claimant worked for that employer in a non-instructional capacity and was not ineligible to receive benefits based on the source of the wages.

(2) Claimant was temporarily unemployed during the weeks of December 22, 2024, through January 4, 2025 (weeks 52-24 through 01-25) due to her employer's winter break. Claimant believed at that time, based on information from her employer, that she was ineligible for benefits for those weeks because she was an employee of an educational institution who received equal payments of her wages over the course of the calendar year. As a result, claimant did not file an additional claim or claim weekly benefits for weeks 52-24 or 01-25 in December 2024 or January 2025. Claimant did not contact the Department prior to March 2025 to inquire as to her eligibility for benefits for those weeks.

(3) In March 2025, claimant learned, due to a relatively recent change in the law, that she may have been eligible to receive benefits for weeks 52-24 and 01-25. Claimant attempted, without success, to file an additional claim weekly benefits for those weeks through Frances Online.

(4) On March 19, 2025, claimant spoke with a Department representative by telephone, filed an additional claim, and requested that it be backdated to December 22, 2024. The Department denied the request to backdate.

CONCLUSIONS AND REASONS: Claimant's request to backdate the additional claim is denied.

OAR 471-030-0040 (January 11, 2018, provides, in relevant part:

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

(a) "Claimant" is an individual who has filed an initial, additional, or reopened claim for unemployment insurance purposes within a benefit year or other eligibility period;

(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;

(c) "Additional claim" is a claim certification by a claimant completed as required by OAR 471-030-0025 that restarts a claim during an existing benefit year or other eligibility period and certifies to the end of a period of employment;

(d) "Reopened claim" is a certification by a claimant completed as required by OAR 471-030-0025 that restarts a claim during an existing benefit year or other eligibility period and certifies that there was no employment in any week since last reporting on this claim;

(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.

* * *

Claimant filed an initial claim for benefits in June 2024, resumed working for her employer, then became temporarily unemployed during weeks 52-24 and 01-25, the weeks of her employer's winter break. Because claimant certified to the end of a period of employment (the start of her employer's

winter break) to restart benefits on an existing claim, claimant filed an *additional claim*, as opposed to an initial or reopened claim. Under OAR 471-030-0040(3), an additional claim must be filed prior to or during the first week for which benefits are claimed. Therefore, for claimant's additional claim to have an effective date of December 22, 2024, it must have been filed by December 28, 2024. Claimant did not dispute that her additional claim was filed on March 19, 2025. Therefore, the requested effective date could be accomplished only through backdating.

An additional claim *will* be backdated one week at the request of a claimant. OAR 471-030-0040(3). However, more than one week elapsed between the end of the first week for which benefits were claimed and when claimant filed the additional claim. The Department *may* backdate an additional claim more than one week "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." OAR 471-030-0040(1)(e). Claimant did not contend that she contacted or attempted to contact the Department in December 2024 or January 2025 regarding claiming benefits for weeks 52-24 and 01-25.

Claimant understood that, before a relatively recent change in the law, many employees of educational institutions were ineligible to receive unemployment insurance benefits during customary school breaks. Claimant contended that the change in law removing this ineligibility for some employees was not well communicated to the affected employees by the Department, their employers, or unions. Moreover, following the change in law, claimant's employer erroneously told her and other employees that they were ineligible to receive benefits during the winter break, even if eligible during other breaks. This misinformation caused claimant to take no action on her claim during the period in which an additional claim could have been filed. Unfortunately, the rule contains no "good cause" provision to backdate an additional claim more than one week. Such backdating is only permitted if there is documentation showing that claimant communicated with the Department during the week of the desired effective date, which is not the case here. Accordingly, claimant's request to backdate the additional claim to December 22, 2024, is denied.

DECISION: Order No. 25-UI-291563 is affirmed.

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

DATE of Service: June 12, 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 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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