

**EMPLOYMENT APPEALS BOARD DECISION**  
**2025-EAB-0324**

*Modified*

*Request to Reopen Allowed*

*Ineligible Weeks 14-21 through 16-21, 18-21, 21-21 through 26-21, 28-21 through 30-21, 32-21, 34-21, 36-21 through 37-21, 39-21, 41-21 through 43-21, 45-21 through 46-21, 48-21, 01-22, 05-22 through 06-22, and 09-22*

**PROCEDURAL HISTORY:** On May 14, 2021, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant received retirement pay that exceeded her weekly benefit amount, and therefore was ineligible to receive unemployment insurance benefits beginning the week of April 4, 2021, through April 10, 2021 (week 14-21), and until the reason for the denial had ended (decision # 100305). Claimant filed a timely request for hearing.

On July 24, 2023, the Office of Administrative Hearings (OAH) served notice of a hearing on decision # 100305 scheduled for August 2, 2023. On August 2, 2023, claimant failed to appear for the hearing, and ALJ Kaneshiro issued Order No. 23-UI-232129, dismissing the hearing request on decision # 100305 due to claimant's failure to appear. On August 16, 2023, claimant filed a timely request to reopen the August 2, 2023, hearing.

On May 8, 2025, ALJ Monroe conducted a hearing, and on May 28, 2025, issued Order No. 25-UI-293433, allowing claimant's request to reopen and modifying decision # 100305 by concluding that claimant received retirement pay that exceeded her weekly benefit amount and therefore was ineligible to receive benefits for the weeks of April 4, 2021, through March 5, 2022 (weeks 14-21 through 09-22). On June 3, 2025, claimant filed an application for review with the Employment Appeals Board (EAB).

**PARTIAL ADOPTION:** EAB considered the entire hearing record, including witness testimony and any exhibits admitted as evidence. EAB agrees with the part of Order No. 25-UI-293433 allowing claimant's request to reopen. That part of Order No. 25-UI-293433 is **adopted**. See ORS 657.275(2).

**FINDINGS OF FACT:** (1) From 2004 until June 2017, claimant worked for the Bend-LaPine School District as a secretary. In June 2017, claimant retired from that position and began receiving retirement pay from the Oregon Public Employees Retirement System (PERS). Thereafter, claimant worked in

nutrition services for the Bend-LaPine School District and the High Desert Education Service District, and received wages from them for this work while also receiving PERS retirement pay.

(2) In the first calendar quarter of 2020, claimant received wages from the Bend-LaPine School District. In the first and second calendar quarters of 2020, claimant received wages from the High Desert Education Service District. The Bend-LaPine School District and the High Desert Education Service District were employers that contributed to PERS.

(3) On April 17, 2021, claimant filed an initial claim for unemployment insurance benefits. The Department determined that claimant had a valid claim for benefits. The base year of claimant's claim consisted of the first, second, third, and fourth calendar quarters of 2020.<sup>1</sup>

(4) The Department determined claimant's weekly benefit amount to be \$157.

(5) Each month, claimant received PERS retirement pay in the amount of \$839.28. The Department apportioned the monthly PERS pay into pro rata weekly amounts by multiplying \$839.28 by 12 months, and dividing that figure by 52 weeks, which resulted in an apportioned PERS payment of \$193.68 per week.

(6) Claimant filed weekly claims for benefits for the week including April 4, 2021 through April 24, 2021 (weeks 14-21 through 16-21), May 2, 2021 through May 8, 2021 (week 18-21), May 23, 2021 through July 3, 2021 (weeks 21-21 through 26-21), July 11, 2021 through July 31, 2021 (weeks 28-21 through 30-21), August 8, 2021 through August 14, 2021 (week 32-21), August 22, 2021 through August 28, 2021 (week 34-21), September 5, 2021 through September 18, 2021 (weeks 36-21 through 37-21), September 26, 2021 through October 2, 2021 (week 39-21), October 10, 2021 through October 30, 2021 (weeks 41-21 through 43-21), November 7, 2021 through November 20, 2021 (weeks 45-21 through 46-21), November 28, 2021 through December 4, 2021 (week 48-21), January 2, 2022 through January 8, 2022 (week 01-22), January 30, 2022 through February 12, 2022 (weeks 05-22 through 06-22), and February 27, 2022 through March 5, 2022 (week 09-22). These are the weeks at issue.<sup>2</sup>

(7) The Department determined that claimant's claim was subject to a weekly benefit amount deduction because claimant received PERS retirement pay, claimant's base year employers included the Bend-LaPine School District and the High Desert Education Service District, and those employers contributed to PERS. The Department did not pay claimant benefits for the weeks at issue because claimant's apportioned weekly PERS payment of \$193.68 exceeded claimant's \$157 weekly benefit amount.

**CONCLUSIONS AND REASONS:** Claimant's weekly benefit amount was subject to a retirement pay deduction for each of the weeks at issue. Claimant's weekly benefit amount was reduced to zero for each

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<sup>1</sup> EAB has taken notice of the facts contained in this paragraph, 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.

<sup>2</sup> EAB has taken notice of the facts contained in this paragraph, which are contained in Employment Department records. OAR 471-041-0090(1). 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.

of the weeks at issue because she received retirement pay each week that exceeded her weekly benefit amount. Order No. 25-UI-293433 is modified to reflect the correct weeks that claimant claimed and for which she was not eligible to receive benefits.

ORS 657.205(1) provides, in pertinent part, “an individual is disqualified for benefits for any week with respect to which the individual is receiving, will receive, or has received a governmental or other pension, retirement or retired pay, annuity, or other similar periodic payment based on the previous work of the individual, if payment is received under a plan maintained or contributed to by a base year employer of the individual.”

ORS 657.205(2) provides, in pertinent part, “In determining disqualification for any week under subsection (1) of this section, if the remuneration and payments referred to in subsection (1) of this section cover a period greater than and include such week, a pro rata share of such remuneration and payments shall be apportioned to such week or weeks.”

ORS 657.205(5) provides, “If under this section the remuneration and payments, or the pro rata share thereof, in any week are less than the benefits which would otherwise be due under this chapter for such week, such individual is entitled to receive for such week, if otherwise eligible, benefits reduced by the amount of such remuneration and payments.”

Claimant received PERS retirement pay in an amount that exceeded her weekly benefit amount for each of the weeks at issue, as claimant’s weekly benefit amount was \$157 and her apportioned weekly PERS payment was \$193.68. Further, the Bend-Lapine School District and the High Desert Education Service District were claimant’s base year employers, and both of those employers were employers that contributed to PERS. Therefore, 657.205 applies, and claimant is subject to a retirement pay deduction that reduces her weekly benefit amount to zero for each of the weeks at issue.

Note that in June 2017, claimant retired from her job working as secretary for the Bend-LaPine School District. At that time, claimant began receiving retirement pay from PERS. In claimant’s later capacity working in nutrition services for the Bend-Lapine School District and the High Desert Education Service District, it may be that those employers did not make contributions to PERS on claimant’s behalf because, at that point, claimant was already a PERS retiree receiving retirement pay. However, it is immaterial whether the Bend-Lapine School District and the High Desert Education Service District contributed to PERS *on claimant’s behalf* at that time because, under ORS 657.205(1), if a base year employer contributed to PERS on *anyone’s* behalf and claimant is receiving PERS retirement pay, claimant is disqualified from benefits if her apportioned weekly PERS payment exceeds her weekly benefit amount.

Accordingly, because the Bend-Lapine School District and the High Desert Education Service District were employers that contributed to PERS and claimant’s apportioned weekly PERS payment exceeded her weekly benefit amount for each of the weeks at issue, claimant is not eligible to receive unemployment insurance benefits for the weeks at issue.

The order under review concluded that the weeks at issue for which claimant was not eligible to receive benefits were the weeks of April 4, 2021, through March 5, 2022 (weeks 14-21 through 09-22). Order No. 25-UI-293433 at 6.

However, per Department records, the actual weeks claimant claimed were Weeks 14-21 through 16-21, 18-21, 21-21 through 26-21, 28-21 through 30-21, 32-21, 34-21, 36-21 through 37-21, 39-21, 41-21 through 43-21, 45-21 through 46-21, 48-21, 01-22, 05-22 through 06-22, and 09-22.

Accordingly, Order No. 25-UI-293433 is modified to reflect that claimant is not eligible to receive benefits for the weeks at issue listed above because she was subject to a retirement pay deduction that reduced her weekly benefit amount to zero for each of those weeks.

**DECISION:** Order No. 25-UI-293433 is modified, as outlined above.

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

**DATE of Service:** July 8, 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 دستورالعمل موجود در پایان آن، از دادگاه تجدید نظر اورگان درخواست تجدید نظر کنید.

**Employment Appeals Board - 875 Union Street NE | Salem, OR 97311**

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