

EMPLOYMENT APPEALS BOARD DECISION
2025-EAB-0365

Late Application for Review Allowed
Reversed
Eligible Weeks 52-24 through 03-25

PROCEDURAL HISTORY: On February 24, 2025, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant did not actively seek work for the weeks of December 22, 2024 through January 18, 2025 (weeks 52-24 through 03-25) (decision # L0009424074). Claimant filed a timely request for hearing. On May 21, 2025, ALJ Murray conducted a hearing at which the Department failed to appear, and issued Order No. 25-UI-292894, affirming decision # L0009424074. On June 10, 2025, Order No. 25-UI-292894 became final without claimant having filed an application for review with the Employment Appeals Board (EAB). On June 13, 2025, claimant filed a late application for review of Order No. 25-UI-292894 with EAB.

EVIDENTIARY MATTER: EAB has considered additional evidence when reaching this decision under OAR 471-041-0090(1) (May 13, 2019). The additional evidence consists of claimant's written statement enclosed with the application for review, has been marked as EAB Exhibit 1, and provided to the parties with this decision. Any party that objects to EAB taking notice of this information must send their objection to EAB in writing, saying 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 exhibit will remain in the record.

FINDINGS OF FACT: (1) On December 28, 2024, claimant filed an initial claim for unemployment insurance benefits. The Department determined claimant's weekly benefit amount to be \$196. Claimant then claimed benefits for the weeks of December 22, 2024 through January 18, 2025 (weeks 52-24 through 03-25). These are the weeks at issue. The Department did not pay claimant benefits for the weeks at issue.¹

¹ EAB has taken notice of these facts, 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.

(2) Prior to the weeks at issue, claimant had last worked as a personal package delivery driver, but could no longer perform that or similar work due to an injury.

(3) Claimant had general administrative skills and a certificate in project management. During the weeks at issue, claimant looked for administrative or other office work. For each of the weeks at issue, claimant applied for at least ten jobs. She did so using LinkedIn, the Department's iMatchSkills program, Indeed.com, and other similar sites.

(4) Order No. 25-UI-292894, mailed to claimant on May 21, 2025, said, "You may appeal this decision by filing the attached form Application for Review with the Employment Appeals Board within 20 days of the date that this decision is mailed." Order No. 25-UI-292894 at 3. Order No. 25-UI-292894 also stated on its Certificate of Mailing, "Any appeal from this Order must be filed on or before June 10, 2025 to be timely."

(5) At all times relevant to this decision, claimant was enrolled in the Address Confidentiality Program (ACP), a mail-forwarding service administered by the Oregon Department of Justice for victims of certain categories of crimes, such as stalking and domestic violence.

CONCLUSIONS AND REASONS: Claimant's late application for review is allowed. Claimant was actively seeking work during the weeks at issue (weeks 52-24 through 03-25).

Late Application for Review. An application for review is timely if it is filed within 20 days of the date that the Office of Administrative Hearings (OAH) mailed the order for which review is sought. ORS 657.270(6); OAR 471-041-0070(1) (May 13, 2019). The 20-day filing period may be extended a "reasonable time" upon a showing of "good cause." ORS 657.875; OAR 471-041-0070(2). "Good cause" means that factors or circumstances beyond the applicant's reasonable control prevented timely filing. OAR 471-041-0070(2)(a). A "reasonable time" is seven days after the circumstances that prevented the timely filing ended. OAR 471-041-0070(2)(b). A late application for review will be dismissed unless it includes a written statement describing the circumstances that prevented a timely filing. OAR 471-041-0070(3).

The application for review was due by June 10, 2025. Claimant did not file her application for review until June 13, 2025, and it was therefore late. However, claimant did not file a timely application for review due to factors or circumstances beyond her reasonable control.

On her statement enclosed with the late application for review, claimant explained that she was prevented from filing a timely application for review because she was enrolled in ACP. EAB Exhibit 1 at 1. From this, it can be reasonably inferred that, due to having her mail forwarded as part of that program, claimant did not timely receive the order under review. As such, claimant was prevented from filing a timely application for review due to factors or circumstances beyond her reasonable control. Further, because claimant filed her late application for review three days after the timely filing deadline, claimant filed it within seven days of when those factors or circumstances ceased. Claimant therefore had good cause for failing to file a timely application for review, and filed the late application for review within a reasonable time. Claimant's late application for review is therefore allowed.

Actively Seeking Work. To be eligible to receive benefits, unemployed individuals must be able to work, available for work, and actively seek work during each week claimed. ORS 657.155(1)(c). With few exceptions that do not apply here, to be actively seeking work as required under ORS 657.155(1)(c), an individual “must conduct at least five work-seeking activities per week,” with two of the five work-seeking activities being a direct contact with an employer who might hire the individual. OAR 471-030-0036(5)(a) (March 25, 2022). “Direct contact” means “making contact with an employer in person, by phone, mail, or electronically to inquire about a job opening or applying for job openings in the manner required by the hiring employer.” OAR 471-030-0036(5)(a)(B).

The order under review concluded that claimant did not actively seek work during the weeks at issue, explaining, “During [the period at issue], claimant used multiple online platforms, including the WorkSource Oregon site, to apply for approximately 10 positions per week. However, claimant performed no direct employer contacts during these weeks.” Order No. 25-UI-292894 at 3. The record does not support the conclusion that claimant performed no direct employer contacts during the weeks at issue.

Under OAR 471-030-0036(5)(a), claimant was required to perform at least five work-seeking activities during each of the weeks at issue. At least two of the five work-seeking activities each week must have been direct contacts with employers. OAR 471-030-0036(5)(a)(B) defines “direct contact” to include “applying for job openings in the manner required by the hiring employer.” Claimant applied for at least ten jobs each week, via LinkedIn, Indeed.com, and other similar job-posting websites. Given that the jobs were posted on those sites, it can be reasonably inferred that, by applying via those sites, claimant applied for those jobs in the manner required by the respective hiring employers. As such, claimant met (and exceeded) the actively seeking work requirement for each of the weeks at issue, and is eligible for benefits for those weeks, if otherwise eligible.

DECISION: The application for review filed June 13, 2025 is allowed. Order No. 25-UI-292894 is set aside, as outlined above.

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

DATE of Service: July 22, 2025

NOTE: This decision reverses the ALJ’s order denying claimant benefits. Please note that in most cases, payment of benefits owed will take about a week for the Department to complete.

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.surveymoz.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 دستور العمل 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.