

EMPLOYMENT APPEALS BOARD DECISION
2025-EAB-0370

Reversed & Remanded

PROCEDURAL HISTORY: On April 16, 2025, the Oregon Employment Department (the Department) served notice of an administrative decision allowing claimant's request to backdate the effective date of his unemployment insurance claim to November 3, 2024 (decision # L0010309071). Claimant filed a timely request for hearing. On May 30, 2025, ALJ Janzen conducted a hearing, and on June 2, 2025, issued Order No. 25-UI-293694, affirming decision # L0010309071. On June 15, 2025, claimant filed an application for review of Order No. 25-UI-293694 with the Employment Appeals Board (EAB).

FINDINGS OF FACT: (1) From October 18, 2024, through November 4, 2024, claimant was temporarily unemployed, though he maintained an employment relationship with his employer. Claimant intended to claim unemployment insurance benefits for the weeks of October 20, 2024, through November 2, 2024 (weeks 43-24 and 44-24), but did not immediately file an initial claim for benefits at the time he became unemployed.

(2) At some point prior to October 31, 2024, claimant attempted to contact the Department to file an initial claim for benefits but was unsuccessful. He therefore visited a local WorkSource office but was directed to establish a Frances Online account and file an initial claim there.

(3) On October 31, 2024, claimant requested access to Frances Online, and the Department documented this request in its records. Claimant thereafter had difficulty establishing a Frances Online account, verifying his identity, and filing an initial claim for benefits.

(4) On November 26, 2024, claimant filed an initial claim for benefits. The effective date of the claim was initially determined to be November 24, 2024.

(5) On January 15, 2025, the Department noted having received online messages from claimant sent on December 10 and 11, 2024, stating that he wanted to claim benefits for "November 4 to 18," but Frances Online was not allowing him to do so. Audio Record at 12:53. The Department considered this a request to backdate the effective date of his claim to November 3, 2024.

(6) On February 6, 2025, claimant spoke with a Department representative and clarified that his period of temporary unemployment began on October 19, 2024, and that he wanted his claim backdated accordingly. Audio Record at 17:56 to 18:21. The representative noted that claimant was advised that his backdating request was “in process.”¹

(7) On April 16, 2025, decision # L0010309071 was issued, concluding that claimant had requested to backdate the effective date of his claim to November 3, 2024, and allowing that request. Decision # L0010309071 stated that claimant had the right to request a hearing on that decision.

(8) On April 23, 2025, claimant spoke with a Department representative, who noted that claimant stated his dates of unemployment were from October 18, 2024, through November 4, 2024, and requested that the effective date of the claim be backdated accordingly. The representative noted that there was documented contact on October 31, 2024, justifying backdating the effective date to the week beginning October 27, 2024 (week 44-22), but that they advised claimant of his right to appeal decision # L0010309071 and noted that claimant intended to pursue appealing it. Audio Record at 21:35 to 22:34.

CONCLUSIONS AND REASONS: Order No. 25-UI-293694 is set aside and the matter remanded to the Office of Administrative Hearings for further development of the record.

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

(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;

* * *

(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.

* * *

¹ EAB has taken notice of this fact, which is 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 will remain in the record.

(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.

* * *

Decision # L0010309071 concluded that claimant requested the effective date of his initial claim for benefits be backdated to November 3, 2024, and that the request was allowed. The order under review stated that the ALJ did not have jurisdiction to consider whether claimant requested backdating to November 3, 2024, as opposed to an earlier date. Order No. 25-UI-293694 at 3. However, the ALJ had jurisdiction over this issue, which was claimant's sole basis of appeal, and the record supports that claimant requested backdating to an earlier effective date. Further development of the record is warranted to determine whether that request should be fully allowed.

The record shows that claimant first requested backdating on January 15, 2025, and at that time, he stated that he intended to claim benefits for November 4 through 18, 2024, which the Department considered a request to backdate to November 3, 2024. However, on February 6, 2025, while that request was pending, claimant told a Department representative that he had been mistaken about the dates he was unemployed and actually wanted the claim to be effective October 19, 2024. At that time, claimant was told that his backdating request was "in process." Nonetheless, decision # L0010309071, issued on April 16, 2025, concluded that claimant had requested that the claim be backdated only to November 3, 2024.

At hearing, the Department's representative asserted that the only issue to be decided was whether the effective date of the claim should be backdated to November 3, 2024, and that if claimant desired an earlier effective date, he should make an additional request and the Department would issue an appealable administrative decision in response. Audio Record at 15:43 to 16:23. This testimony stands in contrast to the Department's handling of the claim, as the record shows that claimant amended the date of his backdating request more than two months before decision # L0010309071 was issued, yet that administrative decision failed to reflect the amendment. Further, the Department's notes show that on April 23, 2025, claimant again requested backdating to the week of October 18, 2024 (week 42-24, beginning October 13, 2024), but instead of processing that request and issuing a new administrative decision, claimant was advised to appeal decision # L0010309071. Under these circumstances, the effective date requested by claimant was an issue to be decided at hearing, and the record shows that he requested backdating it to the week beginning October 13, 2024 (week 42-24).

The record as presently developed is insufficient to determine whether claimant's request should be fully allowed. There is documented contact between claimant and the Department on October 31, 2024, per the Department's records, and the effective date should therefore be backdated no later than the beginning of that week, October 27, 2024 (week 44-24). Claimant testified that prior

to that documented contact, he went to a WorkSource office seeking assistance in filing the initial claim but was directed instead to use Frances Online. Audio Record at 26:36. The record does not show when this occurred, or whether the contact was documented by either party. Further development of the record is therefore needed to determine if backdating to a date earlier than October 27, 2024, is justified under OAR 471-030-0040(1)(e).

On remand, inquiry should be made into when claimant first went to a WorkSource office or otherwise contacted the Department regarding filing his claim, and whether any documentation exists regarding such contact.

Claimant should provide for the hearing on remand, in accordance with the instructions that will be provided on the notice of remand hearing, any documentary evidence of contacts regarding this claim he had prior to October 27, 2024, with the Department or WorkSource.

ORS 657.270 requires the ALJ to give all parties a reasonable opportunity for a fair hearing. That obligation requires the ALJ to ensure that the record developed at the hearing shows a full and fair inquiry into the facts necessary to consider all the issues before the ALJ. ORS 657.270(3); *see accord Dennis v. Employment Division*, 302 Or 160, 728 P2d 12 (1986). Because further development of the record is necessary to decide whether claimant's request to backdate the effective date of his claim to October 13, 2024, should be allowed, Order No. 25-UI-293694 is reversed and this matter remanded to the Office of Administrative Hearings for another hearing and order.

DECISION: Order No. 25-UI-293694 is set aside, and this matter remanded for further proceedings consistent with this order.

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

DATE of Service: July 3, 2025

NOTE: The failure of any party to appear at the hearing on remand will not reinstate Order No. 25-UI-293694 or return this matter to EAB. Only a timely application for review of the order mailed to the parties after the remand hearing will return this matter to EAB.

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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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