

**EMPLOYMENT APPEALS BOARD DECISION**  
**2025-EAB-0440**

*Modified*  
*Late Request for Hearing Allowed*  
*Eligible Weeks 12-25 through 24-25*  
*Ineligible Week 25-25*

**PROCEDURAL HISTORY:** On March 21, 2025, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant failed to actively seek work beginning March 15, 2025 and was not eligible for benefits for the weeks that followed until the reason for the denial ended (decision # L0009851681). On April 10, 2025, decision # L0009851681 became final without claimant having filed a request for hearing.

On May 9, 2025, claimant filed a late request for hearing on decision # L0009851681. ALJ Kangas considered claimant's request, and on May 19, 2025 issued Order No. 25-UI-292699, dismissing the request as late, subject to claimant's right to renew the request by responding to an appellant questionnaire by June 2, 2025. On May 30, 2025, claimant filed a timely response to the appellant questionnaire. On June 4, 2025, the Office of Administrative Hearings (OAH) mailed a letter stating that Order No. 25-UI-292699 was vacated and that a hearing would be scheduled to determine whether to allow claimant's late request for hearing and, if so, the merits of decision # L0009851681.

On July 1, 2025, ALJ Murray conducted a hearing at which the Department failed to appear. On July 3, 2025, ALJ Murray issued Order No. 25-UI-296752, allowing claimant's late request for hearing and modifying decision # L0009851681 by concluding that claimant did not actively seek work and was *not* eligible for benefits from March 16 through April 12, 2025 (weeks 12-25 through 15-25), April 27 through May 17, 2025 (weeks 18-25 through 20-25), and May 25 through June 21, 2025 (weeks 22-25 through 25-25); but did actively seek work and was eligible for benefits from April 13 through 26, 2025 (weeks 16-25 through 17-25), and May 18 through 24, 2025 (week 21-25). On July 18, 2024, claimant filed an application for review of Order No. 25-UI-296752 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 them 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, other than facts

taken notice of that are contained in Department records. EAB considered any parts of claimant's argument that were based on the hearing record.

**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-296752 allowing claimant's late request for hearing. That part of Order No. 25-UI-296752 is **adopted**. See ORS 657.275(2).

**FINDINGS OF FACT:** (1) On December 12, 2024, claimant filed an initial claim for benefits. The Department determined that claimant had a valid claim for benefits with a weekly benefit amount of \$254. Claimant claimed benefits for the weeks of March 15 through June 21, 2025 (weeks 12-25 through 25-25). These are the weeks at issue. The Department did not pay claimant benefits for the weeks at issue.

(2) During the weeks at issue, claimant sought work as a server, grocery store worker, retail worker, and warehouse worker. Claimant's labor market was Tillamook County and the Salem, Oregon areas.

(3) During the week of March 16 through 22, 2025 (week 12-25), claimant applied to four different jobs at Fred Meyer, Tillamook County Creamery, and Safeway, all within Tillamook County. Claimant also visited her local WorkSource office to review job postings and reviewed job postings online.

(4) During the week of March 23 through 29, 2025 (week 13-25), claimant applied for jobs at Best Buy, Target, and Dollar Tree in Salem. Claimant also applied to five different jobs through Indeed.

(5) During the week of March 30 through April 5, 2025 (week 14-25), claimant applied to jobs at Red Lobster, at a restaurant called Noble Wave, as well as at Oregon Beverage Recycling in Salem. Claimant also reviewed job postings on Indeed and at her local WorkSource office.

(6) During the week of April 6 through 12, 2025 (week 15-25), claimant applied for jobs at Buffalo Wild Wings, Applebee's and In-n-Out Burger, in the Salem area. Claimant also applied for two different server jobs through indeed.

(7) During the week of April 13 through 19, 2025 (week 16-25), claimant had two job interviews and also applied for jobs at Red Robin, Costco, and Amazon in Salem. Claimant also searched for and applied for a job on Indeed and searched for and applied for a job through a different employment website that week.<sup>1</sup>

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<sup>1</sup> 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 facts will remain in the record.

(8) During the week of April 20 through 26, 2025 (week 17-25), claimant had two job interviews and applied for jobs at Red Robin, Applebee's, Select Temps, and Pacific Concepts. Claimant also reviewed job postings on Indeed.<sup>2</sup>

(9) During the week of April 27 through May 3, 2025 (week 18-25), claimant applied for jobs with DPI Group and with Man Power in Salem, and with WinCo in Woodburn, Oregon. Claimant also reviewed job postings on Indeed and applied for a job she saw on that website.

(10) During the week of May 4 through 10, 2025 (week 19-25), claimant applied for warehouse worker jobs with DSL, Clean Harbors, Pure Light, and Oak Harbor Freight, all in Salem. Claimant also reviewed job postings on Indeed.

(11) During the week of May 11 through 17, 2025 (week 20-25), claimant applied for jobs at Target, Pacific Coast Technologies, and Select Temps. Claimant also reviewed job postings on Indeed and at her local WorkSource office.

(12) During the week of May 18 through 24, 2025 (week 21-25), claimant had a job interview with an employer and also had a follow-up interview for a job with Amazon that included an orientation meeting and drug test. Claimant also applied for two different jobs at Amazon and a job at Select Temps.

(13) During the week of May 25 through 31, 2025 (week 22-25), claimant applied for a job with the restaurant Noble Crest and a warehouse worker job on Indeed. Claimant also contacted Amazon regarding a job start date letter they had sent her. Claimant also had email communications with Olive Garden regarding a job application she had filed with them. Claimant also reviewed job postings on Indeed.

(14) During the week of June 1 through 7, 2025 (week 23-25), claimant applied for a job at Scenic Farms and for two different jobs at McGrath's Fish restaurant. Claimant also reviewed job postings on Indeed and another employment website.<sup>3</sup>

(15) During the week of June 8 through 14, 2025 (week 24-25), claimant exchanged emails with Amazon regarding steps for her to complete to begin working there. Claimant also applied for jobs with National Frozen Foods and Best Buy, and reviewed job postings on Indeed and another employment website.<sup>4</sup>

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<sup>2</sup> EAB has taken notice of this fact, which is 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 will remain in the record.

<sup>3</sup> 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 facts will remain in the record.

<sup>4</sup> 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

(16) During the week of June 15 through 21, 2025 (week 25-25), claimant started a new job working in a warehouse for Amazon. Claimant worked 40 hours that week and did not conduct any work search activities.

**CONCLUSIONS AND REASONS:** Order No. 25-UI-296752 is modified. Claimant actively sought work and is eligible for benefits for weeks 12-25 through 24-25, so long as she is otherwise eligible. Claimant did not actively seek work and is not eligible for benefits for week 25-25.

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). Because the Department did not pay claimant benefits, she bears the burden to prove that she should have been paid. *Nichols v. Employment Division*, 24 Or App 195, 544 P2d 1068 (1976) (where the Department has paid benefits, it has the burden to prove benefits should not have been paid; by logical extension of that principle, where benefits have not been, paid claimant has the burden to prove that the Department should have paid benefits).

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). “Work seeking activities include but are not limited to registering for job placement services with the Employment Department, attending job placement meetings sponsored by the Employment Department, participating in a job club or networking group dedicated to job placement, updating a resume, reviewing the newspaper or job placement web site without responding to a posted job opening, and making direct contact with an employer.” OAR 471-030-0036(5)(a)(A). “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 and was *not* eligible for benefits for weeks 12-25 through 15-25, 18-25 through 20-25, and 22-25 through 25-25. Order No. 25-UI-296752 at 6. The record does not support those conclusions, except as to week 25-25. Claimant actively sought work during all of the weeks at issue besides week 25-25.

Claimant actively sought work during week 12-25. That week, claimant conducted at least five work-seeking activities with at least two of the five being direct employer contacts. Claimant made four direct contacts with employers by applying for four different jobs at Fred Meyer, Tillamook County Creamery, and Safeway. Claimant engaged in two additional work-seeking activities by reviewing job postings online and at the WorkSource office. Claimant is eligible for benefits for this week.

Claimant actively sought work during week 13-25. That week, claimant conducted at least five work-seeking activities with at least two of the five being direct employer contacts. Claimant made eight direct employer contacts total, by applying for jobs at Best Buy, Target, and Dollar Tree, and five different jobs through Indeed. Claimant is eligible for benefits for this week.

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object, within ten days of EAB mailing this decision. OAR 471-041-0090(2). Unless EAB receives and agrees with the objection, the noticed facts will remain in the record.

Claimant actively sought work during week 14-25. That week, claimant conducted at least five work-seeking activities with at least two of the five being direct employer contacts. Claimant made three direct employer contacts by applying for jobs at Red Lobster, Noble Wave, and Oregon Beverage Recycling. Claimant engaged in two additional work-seeking activities by reviewing job postings on Indeed and at her local WorkSource office. Claimant is eligible for benefits for this week.

Claimant actively sought work during week 15-25. That week, claimant conducted at least five work-seeking activities with at least two of the five being direct employer contacts. Claimant made five direct employer contacts by applying for jobs at Buffalo Wild Wings, Applebee's, In-n-Out Burger, and two additional server jobs through Indeed. Claimant is eligible for benefits for this week.

Claimant actively sought work during week 16-25. That week, claimant conducted at least five work-seeking activities with at least two of the five being direct employer contacts. Claimant made five direct employer contacts by applying for jobs at Red Robin, Costco, and Amazon and applying for a job on Indeed and a job on a different employment website. Claimant is eligible for benefits for this week.

Claimant actively sought work during week 17-25. That week, claimant conducted at least five work-seeking activities with at least two of the five being direct employer contacts. Claimant made four direct employer contacts by applying for jobs at Red Robin, Applebee's, Select Temps, and Pacific Concepts. Claimant also engaged in a fifth work-seeking activity by reviewing job postings on Indeed. Claimant is eligible for benefits for this week.

Claimant actively sought work during week 18-25. That week, claimant conducted at least five work-seeking activities with at least two of the five being direct employer contacts. Claimant made four direct employer contacts by applying for jobs at DPI Group, Man Power, WinCo, and with an employer on Indeed. Claimant engaged in an additional work-seeking activity by reviewing job postings on Indeed. Claimant is eligible for benefits for this week.

Claimant actively sought work during week 19-25. That week, claimant conducted at least five work-seeking activities with at least two of the five being direct employer contacts. Claimant made four direct employer contacts by applying for jobs at DSL, Clean Harbors, Pure Light, and Oak Harbor Freight. Claimant engaged in a fifth work-seeking activity by reviewing job postings on Indeed. Claimant is eligible for benefits for this week.

Claimant actively sought work during week 20-25. That week, claimant conducted at least five work-seeking activities with at least two of the five being direct employer contacts. Claimant made three direct employer contacts by applying for jobs at Target, Pacific Coast Technologies, and Select Temps. Claimant engaged in two additional work-seeking activities by reviewing job postings on Indeed and at her local WorkSource office. Claimant is eligible for benefits for this week.

Claimant actively sought work during week 21-25. That week, claimant conducted at least five work-seeking activities with at least two of the five being direct employer contacts. Claimant made five direct employer contacts by having two job interviews and applying for two different jobs at Amazon and a job at Select Temps. Claimant is eligible for benefits for this week.

Claimant actively sought work during week 22-25. That week, claimant conducted at least five work-seeking activities with at least two of the five being direct employer contacts. Claimant made four direct employer contacts by applying for a job at Noble Crest and a warehouse job on Indeed, and contacting Amazon and Olive Garden regarding start date and job application matters. Claimant engaged in a fifth work-seeking activity by reviewing job postings on Indeed. Claimant is eligible for benefits for this week.

Claimant actively sought work during week 23-25. That week, claimant conducted at least five work-seeking activities with at least two of the five being direct employer contacts. Claimant made three direct employer contacts by applying for a job at Scenic Farms and two different jobs at McGrath's Fish restaurant. Claimant engaged in two additional work-seeking activities by reviewing job postings on Indeed and another employment website. Claimant is eligible for benefits for this week.

Claimant actively sought work during week 24-25. That week, claimant conducted at least five work-seeking activities with at least two of the five being direct employer contacts. Claimant made three direct employer contacts by exchanging emails with Amazon regarding steps to begin working there, and by applying for jobs with National Frozen Foods and Best Buy. Claimant engaged in two additional work-seeking activities by reviewing job postings on Indeed and another employment website. Claimant is eligible for benefits for this week.

As for week 25-25, claimant did not actively seek work because she had started her new job and did not engage in any work-seeking activities for that week.

Accordingly, the order under review is modified. Claimant actively sought work and is eligible for benefits for weeks 12-25 through 24-25, so long as she is otherwise eligible. Claimant did not actively seek work and is not eligible for benefits for week 25-25.

**DECISION:** Order No. 25-UI-296752 is modified, as outlined above.

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

**DATE of Service:** August 22, 2025

**NOTE:** This decision modifies the ALJ's order that denied claimant benefits for some weeks. 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.

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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.

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

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Website: [www.Oregon.gov/employ/pages/employment-appeals-board.aspx](http://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.