

EMPLOYMENT APPEALS BOARD DECISION
2025-EAB-0500

Affirmed
Late Claim for Benefits Denied
Ineligible Week 18-25

PROCEDURAL HISTORY: On May 15, 2025, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant filed a late claim for benefits for the week of April 27 through May 3, 2025 (week 18-25) and was ineligible for benefits for that week (decision # L0010732613). Claimant filed a timely request for hearing. On August 8, 2025, ALJ Micheletti conducted a hearing, and on August 11, 2025 issued Order No. 25-UI-300328, affirming decision # L0010732613. On August 18, 2025, claimant filed an application for review with the Employment Appeals Board (EAB).

FINDINGS OF FACT: (1) On April 23, 2025, claimant filed an initial claim for unemployment insurance benefits. On that date, claimant visited a WorkSource Oregon office. In working with a WorkSource representative, claimant learned that his date of birth had been incorrectly uploaded into the Department's Frances Online system. The incorrect date of birth caused difficulties confirming claimant's identity.

(2) On April 25, 2025, a Department representative called claimant and completed the processing of his initial claim. During the call, the representative finalized claimant's access to the Department's interactive voice response (IVR) system,¹ an automated telephone line through which individuals may file weekly claims for benefits by phone.

(3) The Department determined claimant's initial claim to be monetarily valid, with a first effective week of April 20, 2025 through April 26, 2025 (week 17-25).

¹ The Department representative's notes from the call state that on that date, the representative "Finalized IVR with clmnt." 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.

(4) On May 2, 2025,² claimant used the IVR system to successfully file a weekly claim for benefits for week 17-25.

(5) Claimant wanted to claim benefits for the next week, the week of April 27 through May 3, 2025 (week 18-25). Under the Department's rules, to do so timely, claimant needed to file his claim for week 18-25 no later than May 10, 2025. During the week of May 4 through May 10, 2025, claimant tried to use Frances Online to claim week 18-25. However, claimant was prevented from using Frances Online to claim the week because of the incorrect date of birth information.

(6) On May 12, 2025, the difficulties confirming claimant's identity caused by the incorrect birth date information were resolved and claimant was able to use France Online to claim week 18-25. Week 18-25 is the week at issue. The Department did not pay claimant for the week at issue.

(7) Claimant could have used the IVR system to claim week 18-25 by May 10, 2025. Claimant also could have claimed week 18-25 by May 10, 2025 by filling out a printed claim form for week 18-25 and faxing or mailing the completed form to the Department. Claimant also could have claimed week 18-25 by May 10, 2025 by going in-person to a WorkSource office and completing the form there.

(8) The Department's system labeled the denial of benefits for week 18-25 as "not claimant caused, agency error." Audio Record at 14:10. On May 15, 2025, the Department issued decision # L0010732613, concluding that claimant filed a late claim for benefits for week 18-25. Decision # L0010732613 contained a typographical error stating that to claim timely, claimant needed to have filed his claim for week 18-25 no later than May 19, 2025.

CONCLUSIONS AND REASONS: Claimant filed a late claim for benefits for the week of April 27, 2025 through May 3, 2025 (week 18-25), and is not eligible for benefits for that week.

Claimant has the burden to prove that the Department should have paid benefits. *See 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.).

ORS 657.155(1)(b) provides that an unemployed individual shall be eligible to receive benefits with respect to any week only if the individual has made a claim for benefits with respect to such week in accordance with ORS 657.260. ORS 657.260(1) provides that claims for benefits shall be filed in accordance with such regulations as the Department may prescribe. OAR 471-030-0045 (January 11, 2018) provides, in relevant part:

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

² 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.

(a) “Continued Claim” means an application that certifies to the claimant’s completion of one or more weeks of unemployment and to the claimant’s status during these weeks. The certification may request benefits, waiting week credit, or non-compensable credit for such week or weeks. A continued claim must follow the first effective week of an initial, additional or reopen claim, or the claimant’s continued claim for the preceding week[.]

* * *

(4) A continued claim must be filed no later than seven days following the end of the week for which benefits, waiting week credit, or noncompensable credit, or any combination of the foregoing is claimed, unless:

(a) The continued claim is for the first effective week of the benefit year, in which case the week must be claimed no later than 13 days following the end of the week for which waiting week credit is claimed[.]

* * *

Under OAR 471-030-0045(3), a continued claim may be filed in person at any Department office in the state of Oregon, by United States mail, by fax, by internet, and by telephone.

The continued claim for benefits for the week at issue was due by May 10, 2025, seven days after the end of that week. Claimant filed his claim for the week at issue on May 12, 2025, and the claim therefore was late. Claimant did not file the claim within the seven-day period following the week at issue because he sought to file the claim through Frances Online and, due to incorrect date of birth information, claimant was not able to use that method to file until May 12, 2025.

It is regrettable that an error relating to claimant’s birthdate caused him to not be able to use Frances Online to claim until May 12, 2025. However, OAR 471-030-0045 also authorizes the filing of claims by telephone, mail, fax, and in person. Claimant used the IVR system to timely file a weekly claim for week 17-25 by telephone, and claimant did not show by a preponderance of the evidence that he could not have done the same for the week at issue.³ Claimant could also have timely claimed the week at issue by printing out the claim form for week 18-25 and faxing or mailing the completed form to the Department,⁴ or by going in-person to a WorkSource office and completing the form there.

³ At hearing, claimant testified that “without my identity verification, I was not able to use the weekly claim line either.” Audio Record at 21:37. However, the witness for the Department testified un rebutted that claimant timely filed a claim for week 17-25 via the IVR system. Audio Record at 9:50. Department records show that claimant’s access to the IVR system was finalized on April 25, 2025, and that claimant timely claimed week 17-25 on May 2, 2025. Given that claimant was able to successfully use the IVR system to claim week 17-25 on May 2, 2025, the weight of the evidence does not show that claimant would have been prevented from using the IVR system to claim week 18-25 by May 10, 2025.

⁴ A printable claim form is available at <https://unemployment.oregon.gov/weekly-claims>.

The Department labelled the denial of benefits for week 18-25 as “not claimant caused, agency error” and decision # L0010732613 contained a typographical error incorrectly stating that claimant had until May 19, 2025 to claim the week at issue. Audio Record at 14:10. However, the typographical error in the administrative decision did not induce claimant to fail to timely claim the week at issue because decision # L0010732613 was issued and mailed to claimant only after he had claimed the week late on May 12, 2025. Further, the Department’s designation that the denial of benefits for the week at issue was due to agency error notwithstanding, there is no “good cause” exception to the requirement that a weekly claim be filed within seven days following the end of the week being claimed.

For these reasons, the weekly claim for benefits for week 18-25 was filed late and claimant therefore is ineligible for benefits for that week.

DECISION: Order No. 25-UI-300328 is affirmed.

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

DATE of Service: September 24, 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.

Please help us improve our service by completing an online customer service survey. To complete the survey, please go to <https://www.surveygizmo.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 دستورالعمل موجود در پایان آن، از دادگاه تجدید نظر اورگان درخواست تجدید نظر کنید.

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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.