

EMPLOYMENT APPEALS BOARD DECISION
2025-EAB-0513

Affirmed
Ineligible Weeks 10-25 through 21-25

PROCEDURAL HISTORY: On May 13, 2025, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant was not available for work beginning the week of March 2 through March 8, 2025 (week 10-25) and was not eligible for benefits for that week and until the reason for the denial had ended (decision # L0010742347). Claimant filed a timely request for hearing. On July 30, 2025, ALJ Rackstraw conducted a hearing, and on August 6, 2025 issued Order No. 25-UI-299742, modifying decision # L0010742347 by concluding that claimant was not available for work and therefore was not eligible for benefits for the weeks of March 2 through May 24, 2025 (weeks 10-25 through 21-25). On August 25, 2025, claimant filed an application for review with the Employment Appeals Board (EAB).

WRITTEN ARGUMENT: Claimant submitted a written argument with his application for review on August 25, 2025. EAB considered claimant's argument in reaching this decision.

FINDINGS OF FACT: (1) Claimant became unemployed in November 2024. On February 10, 2025, claimant filed an initial claim for unemployment insurance benefits. Claimant lacked full access to Frances Online and the processing of his initial claim was delayed because the Department's system required claimant to obtain a "new letter ID." Exhibit 1 at 3.

(2) In the weeks that followed, claimant attempted to call the Department several times to resolve the letter ID issue. Claimant was unable to reach a representative. By the end of February 2025, claimant was in financial distress and anticipated being unable to pay his bills for the next month.

(3) Claimant lived in Bend, Oregon, and had lived there since 2020. On March 3, 2025, after paying the rent for March on his apartment in Bend, claimant relocated from Bend to his parents' home in Delaware. Claimant relocated to his parents' home in Delaware because he could not afford his living expenses in Bend. Claimant intended the relocation to his parents' home in Delaware to be temporary and that he would eventually return to Bend. After the relocation, claimant's parents paid the rent on claimant's apartment in Bend anticipating that claimant would return when his finances improved. Claimant had his mail forwarded from Bend to his parents' address in Delaware.

(4) The issue with claimant's letter ID remained unresolved and claimant's initial claim remained unprocessed. In mid-April 2025, claimant asked for assistance from state legislators. On April 30, 2025, a Department representative contacted claimant and soon thereafter, claimant's initial claim was processed and the issue with claimant's letter ID was resolved.

(5) On May 8, 2025, a Department representative called claimant. At that time, claimant stated that he planned to return to Bend and declined to change his mailing address to his parents' address in Delaware.

(6) Claimant claimed benefits for the weeks of March 2 through May 24, 2025 (weeks 10-25 through 21-25). These are the weeks at issue. The Department did not pay claimant benefits for the weeks at issue.

(7) The Department determined that claimant's normal labor market area was the Bend, Oregon and Redmond, Oregon area. The Department did not pay claimant benefits for the weeks at issue because it concluded that claimant was not present in his normal labor market area and therefore not available for work due to being in Delaware during those weeks.

(8) During the weeks at issue, claimant sought work as an operations manager. Since March 2020, claimant had worked remotely, and the work claimant sought during the weeks at issue was remote work, though claimant was willing to work in-person. Some of the remote work claimant sought during the weeks at issue was for prospective employers located in Bend and other central Oregon locations. Claimant did not seek any work during the weeks at issue from prospective employers located in Delaware.

CONCLUSIONS AND REASONS: Claimant was not available for work during the weeks at issue.

To be eligible to receive benefits, unemployed individuals must be available for work during each week claimed. ORS 657.155(1)(c). For an individual to be considered "available for work" for purposes of ORS 657.155(1)(c), they must be:

* * *

(d) Physically present in the normal labor market area . . . every day of the week, unless:

(A) The individual is actively seeking work outside his or her normal labor market area; or

(B) The individual is infrequently absent from the normal labor market area for reasons unrelated to work search, for less than half of the week, and no opportunity to work or referral to work was missed by such absence.

* * *

OAR 471-030-0036(3) (March 25, 2022). Furthermore, OAR 471-030-0036(6)(a), provides:

An individual's normal labor market shall be the geographic area surrounding the individual's permanent residence within which employees in similar circumstances are generally willing to commute to seek and accept the same type of work at a comparable wage. The geographic area shall be defined by employees of the Employment Department, based on criteria set forth in this section[.]

Where, as here, the Department has not paid benefits, claimant bears 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).

The record shows that claimant was not physically present in his normal labor market area during the weeks at issue and, therefore, claimant was not available for work during those weeks. The Department determined that claimant's normal labor market area was the Bend, Oregon and Redmond, Oregon area. This determination was reasonable. Claimant had lived in Bend since 2020, he intended the relocation to his parents' home in Delaware to be temporary, his parents continued paying the rent on his apartment in Bend anticipating that he would return, and during a March 8, 2025 call with a Department representative, claimant stated that he planned to return to Bend and declined to change his mailing address to his parents' address in Delaware. Though claimant had worked remotely since March 2020, and the work he sought during the weeks at issue was remote work, remote work is not a geographic area and is therefore not a labor market within the meaning of OAR 471-030-0036(6)(a).

Next, beginning March 3, 2025 and continuing throughout the weeks at issue, claimant was not present in the Bend and Redmond area, but was in Delaware. Claimant therefore was not physically present in his normal labor market area every day of the week. Further, OAR 471-030-0036(3)(d)(A) and (B) do not apply. As to (A), claimant did not seek any work during the weeks at issue in Delaware, and so was not actively seeking work outside his normal labor market area in Delaware. As to (B), though claimant was absent from the Bend and Redmond area because of financial hardship, and so for reasons unrelated to work search, claimant was absent for more than half of the week for each of the weeks at issue.

Accordingly, under OAR 471-030-0036(3)(d), claimant was not available for work during the weeks at issue, and therefore is ineligible for benefits for those weeks. The record suggests that the processing of claimant's initial claim was delayed because of the letter ID issue, and that this delay may have prevented weekly benefits from issuing promptly after claimant filed his initial claim on February 10, 2025. While the absence of prompt payment of benefits for weeks in February 2025¹ may have contributed to the financial hardship that ultimately caused claimant to travel to Delaware on March 3, 2025, claimant's on-going presence in Delaware had the effect of rendering him ineligible for benefits for the weeks at issue. It is deeply regrettable that claimant did not receive prompt communication from

¹ Department records show that the weeks claimant claimed before the weeks at issue were the weeks of February 9, 2025 through March 1, 2025 (weeks 07-25 through 09-25). Department records show that the Department paid claimant benefits for those weeks on May 8, 2025. EAB has taken notice of these facts, 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 facts will remain in the record.

the Department about his claim and experienced processing delays that may have affected his decision to leave his normal labor market area.

For the reasons outlined above, claimant was not available for work during the weeks at issue, the weeks of March 2 through May 24, 2025 (weeks 10-25 through 21-25), and therefore is not eligible to receive benefits for those weeks.

DECISION: Order No. 25-UI-299742 is affirmed.

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

DATE of Service: September 26, 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.

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