

EMPLOYMENT APPEALS BOARD DECISION
2025-EAB-0593

Reversed & Remanded

PROCEDURAL HISTORY: On August 4, 2025, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant was not available for work during the weeks of July 13, 2025 through August 2, 2025 (weeks 29-25 through 31-25) and therefore was ineligible to receive unemployment insurance benefits for those weeks (decision # L0012128320). Claimant filed a timely request for hearing. On September 23, 2025, ALJ Griffith conducted a hearing, and on September 26, 2025, issued Order No. 25-UI-305126, affirming decision # L0012128320. On October 6, 2025, claimant filed an application for review with the Employment Appeals Board (EAB).

WRITTEN ARGUMENT: EAB considered claimant's written argument in reaching this decision.

FINDINGS OF FACT: (1) Claimant filed an initial claim for unemployment insurance benefits, and, in June 2025, was approved for benefits under the Department's Training Unemployment Insurance (TUI) program, effective June 22, 2025 through June 19, 2027.¹ Claimant subsequently claimed benefits for the weeks of July 13, 2025 through August 2, 2025 (weeks 29-25 through 31-25). These are the weeks at issue. The Department paid claimant benefits for week 29-25, and did not pay claimant benefits for weeks 30-25 or 31-25.

(2) The Department determined claimant's labor market to consist of Lake Oswego, Wilsonville, Tigard, Portland, Oregon City, and Beaverton, Oregon.

(3) Claimant's participation in the TUI program was premised on his enrollment in a business degree program at Portland Community College (PCC). Claimant was actively enrolled in this program during

¹ EAB has taken notice of these facts, which 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 weeks at issue. Participants in the TUI program are not required to actively seek work each week while participating in the TUI program.

(4) On July 15, 2025, as part of an entrepreneurship course he was taking at PCC, claimant left the United States for a school-related trip to the Czech Republic. The Czech Republic is not a member of the Compact of Free Association with the United States. While there, claimant spent time interviewing local business owners who had emigrated from the United States, meeting with local officials and members of the public, and similar. Claimant did not interview for jobs while in the Czech Republic, and was not the spouse or domestic partner of a person stationed at a military base or embassy in the Czech Republic. On August 3, 2025, claimant returned to the United States.

CONCLUSIONS AND REASONS: Order No. 25-UI-305126 is set aside and this matter remanded for further development of the record.

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).

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 * * *.

* * *

OAR 471-030-0036(3) (March 21, 2022). An individual meets the physical presence requirement of OAR 471-030-0036(3)(d) only if they are in their 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.

An individual’s normal labor market area is “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,” as defined by employees of the Department based on these criteria. OAR 471-030-0036(6)(a).

OAR 471-030-0036(3)(i) states:

An individual is not available for work in any week claimed under ORS 657.155 if the individual resides or spends the major portion of the week:

- (A) In Canada unless the individual is authorized to work in Canada;
- (B) In a country not included in the Compact of Free Association with the United States of America; or
- (C) outside of the United States, District of Columbia or any territory or political division that is directly overseen by the United States federal government; except,
 - (i) If the individual is the spouse or domestic partner of an individual stationed at a military base or embassy located outside the United States;
 - (ii) Job opportunities exist on the military base or embassy for family members of those stationed there;
 - (iii) The individual lives within a reasonable commuting distance to job opportunities at the military base or embassy; and
 - (iv) The individual is willing to accept the conditions and terms of the available employment provided they are not inconsistent with ORS 657.195.

ORS 657.340 states:

- (1) Dislocated workers approved for career and technical training may not be denied unemployment insurance benefits solely because they are attending career and technical training, nor shall such individual be denied benefits by reason of leaving work to enter such training if the work left was part-time or temporary or paid less than 80 percent of the individual's average weekly wage during the base year.
- (2) Notwithstanding provisions of this chapter relating to availability for work, actively seeking work or refusal to accept suitable work, dislocated workers approved for career and technical training and otherwise eligible for benefits are not ineligible for such benefits or waiting week credit because of attendance in career and technical training.

* * *

OAR 471-030-0080(3) (January 11, 2018) states:

To receive benefits for any week during career and technical training, a dislocated worker who is otherwise eligible for unemployment insurance benefits must:

* * *

- (b) Submit to the Employment Department a timely claim for such week in accordance with OAR 471-030-0045(4) which establishes the individual:

(A) Was physically present in the individual's labor market as defined in OAR 471-030-0036(6); and

(B) Attended and participated in all scheduled classes for each week of approved career and technical training; or

(C) If the individual failed to attend or participate in all scheduled classes during the week, was able and available for work[.]

* * *

During the majority of each of the weeks at issue, claimant was both out of his normal labor market and out of the country, as he was on a school-related trip to the Czech Republic. The Czech Republic is not a member of the Compact of Free Association with the United States, and claimant did not interview for jobs while in the Czech Republic. Thus, under the rules for unemployment insurance claims not in the TUI program, claimant would not have been eligible for benefits because he was both out of his labor market and outside of the country, and therefore not available for work. The order under review concluded similarly, explaining that claimant was not eligible for benefits for the weeks at issue because he was outside of his labor market for those weeks. Order No. 25-UI-305126 at 3. The record as developed does not support this conclusion.

In particular, the order under review did not account for the fact that the weeks at issue fall under the TUI program, a special unemployment insurance program offered to dislocated workers. *See* Dislocated Worker Program ORS 657.335-.360. Although several of the eligibility requirements under OAR 471-030-0036 still apply to benefits claimed under the TUI program, they must also be considered in light of the TUI-specific requirements under ORS 657.340 and OAR 471-030-0080. OAR 471-030-0080(3)(b)(A) requires that claimants under the TUI program be “physically present in the [their] labor market” for any given week to be eligible for benefits under the program for that week *or* under OAR 471-030-0080(3)(b)(C) that they be able and available for work if the “individual failed to attend or participate in all scheduled classes during the week.” There is tension between these provisions of the rule and the provisions of ORS 657.340 stating that claimants under the TUI program “may not be denied unemployment insurance benefits solely because they are attending career and technical training” and that such claimants “are not ineligible for such benefits or waiting week credit because of attendance in career and technical training.”

First, it is not clear from the record whether claimant was required to attend the trip to the Czech Republic as part of a course for his business degree program at Portland Community College (PCC) and, if so, what effect, if any, his decision not to attend would have had on his standing in that course. This is relevant because it is conceivable that various sorts of training and education programs that qualify under the TUI program could require enrolled individuals to travel outside of their labor market (regardless of whether the travel is outside of the state or country). As an example, it would stand to reason that individuals in the TUI program living in Portland, Oregon, might enroll in training and education programs outside their labor market in Eugene, Oregon or Corvallis, Oregon, where the University of Oregon and Oregon State University are respectively located, and one would expect the program to function so that a claimant in that scenario would receive benefits, so long as other eligibility

criteria are met. It is not clear how the Department would consider the requirement of OAR 471-030-0080(3)(b)(A) under such circumstances.

On remand, the ALJ should inquire as to the specific terms of claimant's trip, including whether he was required to attend the trip as a condition of his enrollment in the course, as well as whether claimant either sought permission from the Department to attend the trip or was advised by the Department prior to the trip that attending would not affect his eligibility for benefits. Additionally, the ALJ should ask the Department's witness about the Department's interpretation of OAR 471-030-0080(3)(b)(A) and under what types of circumstances, if any, the Department would consider such out-of-labor-market travel to be permitted under the TUI program. The ALJ should inquire as to whether the TUI application requires that a training program be located in an applicant's labor market. The ALJ should inquire about how claimants are notified of any requirement to remain in their labor market once admitted into the TUI program, and whether any exceptions apply if approved programs have classes or training that is located outside of their labor market. To this end, the Department should produce a witness who is knowledgeable about the administration of the TUI program and the eligibility requirements specific to that program.

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 was eligible for benefits under the TUI program during the weeks at issue, Order No. 25-UI-305126 is reversed and this matter remanded to the Office of Administrative Hearings for another hearing and order.

DECISION: Order No. 25-UI-305126 is set aside, and this matter remanded for further proceedings consistent with this order.

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

DATE of Service: October 31, 2025

NOTE: The failure of any party to appear at the hearing on remand will not reinstate Order No. 25-UI-305126 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 دستورالعمل موجود در پایان آن، از دادگاه تجدید نظر اورگان درخواست تجدید نظر کنید.

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