

EMPLOYMENT APPEALS BOARD DECISION
2025-EAB-0666

Modified
Initial Claim Effective April 28, 2024

PROCEDURAL HISTORY: On July 15, 2025, the Oregon Employment Department (the Department) served notice of an administrative decision denying claimant's request to backdate her initial claim for benefits to April 21, 2024 (decision # L0011986384). Claimant filed a timely request for hearing. On October 17, 2025, ALJ Contreras conducted a hearing, and on October 24, 2025 issued Order No. 25-UI-308356, reversing decision # L0011986384 by backdating the claim to April 21, 2024. On November 7, 2025, the Department filed an application for review with the Employment Appeals Board (EAB).

WRITTEN ARGUMENT: EAB did not consider the Department's argument because it was not received by EAB within the time allowed under OAR 471-041-0080(1) (May 13, 2019). OAR 471-041-0080(2)(b).

FINDINGS OF FACT: (1) On March 15, 2024, claimant filed an initial claim for benefits in Oregon. The Department determined that the claim was not monetarily valid due to insufficient wages and hours during the base year, and allowed claimant to cancel the claim in November 2024.

(2) On November 1, 2024, claimant filed an initial claim for benefits in Iowa. The claim was determined to be monetarily valid using the standard base year, and the effective date was backdated to February 4, 2024, with a benefit year end (BYE) of February 1, 2025.

(3) Claimant filed weekly claims for benefits for the weeks from February 4 through April 27, 2024 (weeks 06-24 through 17-24) on the cancelled Oregon claim that were later transferred to the Iowa claim.¹ In November 2024, Iowa paid claimant benefits for weeks 06-24 through 16-24, leaving a balance of \$28.22 left on the claim.² The weekly claim information transmitted by Oregon for the week

¹ Claim week numbers are stated in accordance with Oregon's numbering system, which may differ from that used by Iowa.

² Claimant testified that Iowa told her the balance was "like \$12.00." Transcript at 17. However, the Department's records show the balance as \$28.22, and as this information is likely more accurate than claimant's recollection, this fact has been

of April 21 through 27, 2024 (week 17-24) was incomplete regarding claimant's work-seeking activities, and therefore remained in adjudication as of the date of the hearing.

(4) On December 14, 2024, claimant sent a message to the Department requesting to file an initial claim in Oregon and backdate the effective date to April 21, 2024. On January 10, 2025, a Department representative replied that claimant had not exhausted benefits on her Iowa claim, and stated that if she filed an initial claim in Oregon before the Iowa claim either expired or was exhausted, the Oregon claim would be invalid.

(5) In response to the Department's reply, claimant contacted Iowa regarding exhausting her claim and was told that Oregon had partially transferred to them her weekly claim for the week of April 21 through 27, 2024 (week 17-24) which, if allowed, would exhaust the final \$28.22 of benefits on the claim. On February 1, 2025, the Iowa claim expired.

(6) On February 11, 2025, claimant filed an initial claim for benefits in Oregon. This is the initial claim at issue. The Department determined that the claim was monetarily valid with an effective date of February 9, 2025. On February 18, 2025, claimant requested that the initial claim at issue be backdated to April 21, 2024. On July 15, 2025, the Department issued decision # L0011986384, denying that request.

(7) Claimant had Oregon subject wages and hours worked available for use in the initial claim at issue, if effective during the second quarter of 2024, as follows:³

Quarter	Wages	Hours
First Quarter 2023	\$0	0
Second Quarter 2023	\$0	0
Third Quarter 2023	\$0	0
Fourth Quarter 2023	\$6,636.16	256
First Quarter 2024	\$7,705.63	256

(8) On December 5, 2025, the Department issued decision L0014488246, backdating claimant's initial claim to April 28, 2024.⁴

found in accordance with the Department's records, of which official notice has been taken. 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(s) will remain in the record.

³ 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.

⁴ 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

CONCLUSIONS AND REASONS: Claimant is eligible to backdate the initial claim at issue to April 28, 2024.

Backdating to April 21, 2024 (Week 17-24). 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;

(c) “Additional claim” is a claim certification by a claimant completed as required by OAR 471-030-0025 that restarts a claim during an existing benefit year or other eligibility period and certifies to the end of a period of employment;

(d) “Reopened claim” is a certification by a claimant completed as required by OAR 471-030-0025 that restarts a claim during an existing benefit year or other eligibility period and certifies that there was no employment in any week since last reporting on this claim;

(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.

* * *

(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.

* * *

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.

ORS 657.010(1) provides:

As used in this chapter, unless the context requires otherwise:

- (1) “Base year” means the first four of the last five completed calendar quarters preceding the benefit year.
- (2) “Benefits” means the money allowances payable to unemployed persons under this chapter.
- (3) “Benefit year” means a period of 52 consecutive weeks commencing with the first week with respect to which an individual files an initial valid claim for benefits, and thereafter the 52 consecutive weeks period beginning with the first week with respect to which the individual next files an initial valid claim after the termination of the individual’s last preceding benefit year except that the benefit year shall be 53 weeks if the filing of an initial valid claim would result in overlapping any quarter of the base year of a previously filed initial valid claim.

* * *

ORS 657.150 provides:

- (1) An individual shall be paid benefits for weeks during the benefit year in an amount that is to be determined by taking into account the individual’s work in subject employment in the base year as provided in this section.
- (2) (a) To qualify for benefits an individual must have:
 - (A) Worked in subject employment in the base year with total base year wages of \$1,000 or more and have total base year wages equal to or in excess of one and one-half times the wages in the highest quarter of the base year; and
 - (B) Have earned wages in subject employment equal to six times the individual’s weekly benefit amount in employment for service performed subsequent to the beginning of a preceding benefit year if benefits were paid to the individual for any week in the preceding benefit year.
- (b) If the individual does not meet the requirements of paragraph (a)(A) of this subsection, the individual may qualify for benefits if the individual has worked a minimum of 500 hours in employment subject to this chapter during the base year.

* * *

ORS 657.173 provides:

- (1) (a) Notwithstanding ORS 657.010 (1), in the case of an individual who is not eligible for benefits under ORS 657.150 (2) using the definition in ORS 657.010 (1), “base year”

means the last four completed calendar quarters preceding the benefit year, if use of this alternate definition of “base year” makes the individual eligible for benefits under ORS 657.150 (2).

(b) Notwithstanding paragraph (a) of this subsection, a determination of eligibility under ORS 657.150 (2) may not be made using paragraph (a) of this subsection if the individual qualifies or would qualify for regular benefits under the unemployment law of another governmental jurisdiction using that jurisdiction’s standard base year.

(c) Work and earnings in a calendar quarter that is included in a claim determined to be eligible using the base year as defined in paragraph (a) of this subsection cannot be included in the base year of a subsequent claim unless the subsequent claim’s base year is extended under ORS 657.170 to include the calendar quarter.

(2) (a) Except as provided in paragraph (b) of this subsection, the definition of “base year” that applies for the purposes of determining an individual’s eligibility for benefits under ORS 657.150 applies for all purposes under this chapter related to that individual’s claim.

(b) When making a finding under ORS 657.170 (1), “base year” has the meaning given that term in ORS 657.010 (1).

ORS 657.210 provides: “An individual is disqualified for benefits for any week with respect to which or a part of which the individual has received, will receive or is claiming unemployment benefits under an unemployment insurance law of another state, the United States or any other governmental jurisdiction. However, if the appropriate agency of such other state, the United States or any other governmental jurisdiction finally determines that the individual is not entitled to such unemployment benefits, this disqualification shall not apply.”

The initial claim for benefits at issue was filed on February 11, 2025. Under OAR 471-030-0040(3), the claim is therefore effective Sunday, February 9, 2025. Claimant requested backdating the effective date to April 21, 2024. The order under review concluded that claimant was entitled to backdate the effective date of the claim to that date. Order No. 25-UI-308356 at 4. However, the order failed to consider whether the claim would remain monetarily valid with that effective date.

If the initial claim at issue were effective April 21, 2024, which is in the second quarter of 2024, the standard base year of the claim would consist of the first through fourth quarters of 2023, which are the first four of the last five completed calendar quarters preceding the benefit year. ORS 657.010(1). Under ORS 657.150(2)(a)(A), claimant had more than \$1,000 in Oregon subject wages during that base year, but the wages were paid in only one of the four quarters, the fourth quarter of 2023. Because the wages in the highest quarter were equal to the total base year wages, claimant did not have total base year wages equal to or in excess of one and one-half times the wages in the highest quarter of the base year. Claimant worked 256 hours during the base year, and therefore did not meet the 500 hour minimum under ORS 657.150(2)(b) to qualify under the alternative provision. Therefore, claimant could not establish a monetarily valid claim using the standard base year if the initial claim at issue were effective April 21, 2024.

However, using an alternate base year consisting of the last four completed calendar quarters preceding the benefit year, which would be the second through fourth quarters of 2023 and the first quarter of 2024, would yield a different result under ORS 657.173(1)(a). The total alternate base year wages would equal \$14,341.79. The wages in the highest quarter of the alternate base year were \$7,705.63, and one and one-half that amount is \$11,558.45. Because the total alternate base year wages would exceed one and one-half times the wages in the highest quarter of the alternate base year, the requirements of ORS 657.150(2)(a)(A) would be met.

Nonetheless, ORS 657.173(1)(b) prohibits the use of an alternate base year to establish a claim “if the individual qualifies or would qualify for regular benefits under the unemployment law of another governmental jurisdiction using that jurisdiction’s standard base year.” The Department’s representative testified that claimant was eligible to establish her Iowa claim using a “regular base year.” Transcript at 28. Claimant did not rebut this testimony. The record shows that the expiration date of the Iowa claim was February 1, 2025, and it was therefore not expired during the week of April 21, 2024. The record also shows that claimant had not exhausted the maximum benefit on her Iowa claim as of April 21, 2024. As such, it is more likely than not that claimant qualified or would qualify for regular benefits under Iowa’s unemployment laws for the week of April 21, 2024 using a standard benefit year. Therefore, under ORS 657.173(1)(b), claimant would be prohibited from establishing an Oregon claim that was effective April 21, 2024 using an alternate base year. Accordingly, because claimant would be unable to establish a monetarily valid claim using either the standard or alternate base year, if effective April 21, 2024, she is not entitled to backdate the effective date of the claim at issue to that week.⁵

Effect of Decision # L0014488246. Oregon courts follow the principle that a review on appeal may only be provided for justiciable controversies. See, e.g., *Gortmaker v. Seaton*, 252 Or. 440, 442, 450 P.2d 547 (1969). A justiciable controversy exists when the interests of the parties to the action conflict with each other, and the appeal will have some practical effect on the rights of the parties to the controversy. *Barcik v. Kubiacyk*, 321 Or 174, 895 P2d 765 (1995). To show a practical effect on their rights, an appellant must seek “substantive relief” through their appeal. *Krisor v. Henry*, 256 Or. App. 56, 300 P.3d 199 (Or. Ct. App. 2013).

While this matter was pending before EAB, the Department issued decision # L0014488246, allowing claimant’s request to backdate her initial claim, but with an effective date of April 28, 2024, rather than the date of April 21, 2024 she requested. As no dispute currently exists between the parties regarding claimant’s entitlement to backdate the effective date of the initial claim at issue to the earliest intervening week between the week requested and the week the claim was filed, there remains no further justiciable controversy for EAB to resolve through this appeal. Accordingly, pursuant to the conclusions of decision # L0014488246, claimant remains entitled to backdate the effective date of the initial claim at issue to April 28, 2024.

DECISION: Order No. 25-UI-308356 is modified, as outlined above.

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

⁵ Claimant should note that even if the claim were backdated to April 21, 2024, if she ultimately received or receives the remaining \$28.22 in benefits, or a portion thereof, from Iowa for week 17-24, ORS 657.210 would likely disqualify her from receiving Oregon benefits or waiting week credit for that week.

DATE of Service: December 11, 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 باتباع 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.

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

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