

EMPLOYMENT APPEALS BOARD DECISION
2025-EAB-0743

*Order No. 25-UI-310259 Affirmed as to Weeks 32-25 through 33-25 – Ineligible
Application for Review Dismissed as to Weeks 34-25 through 35-25 – No Justiciable Controversy*

PROCEDURAL HISTORY: On September 12, 2025, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant did not actively seek work for the weeks from August 3 through August 30, 2025 (weeks 32-25 through 35-25), and was not eligible for benefits for those weeks (decision # L0012930762). Claimant filed a timely request for hearing. On November 5, 2025, ALJ Goodrich conducted a hearing, and on November 12, 2025 issued Order No. 25-UI-310259, modifying decision # L0012930762 by concluding that claimant was not eligible for benefits for weeks 32-25 through 33-25, but was eligible for benefits for weeks 34-25 through 35-25. On December 2, 2025, claimant filed an application for review 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 him 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. EAB considered any parts of claimant's argument that were based on the hearing record.

FINDINGS OF FACT: (1) On August 3, 2025, claimant filed an initial claim for unemployment insurance benefits with the state of Texas. On August 20, 2025, claimant transferred his claim to Oregon.

(2) Claimant claimed benefits for the weeks of August 3 through August 30, 2025 (weeks 32-25 through 35-25). These are the weeks at issue. The Department did not pay claimant benefits for the weeks at issue.

(3) During the weeks at issue, claimant was working towards being hired with a caregiving agency, and engaged in activities such as interviews, CPR training, and the completion of background checks and similar in furtherance of that goal. As such, claimant had "multiple contacts with [the caregiving agency] every week." Transcript at 31.

(4) During the week of August 10 through 16, 2025 (week 33-25), claimant also “looked at different companies [other than the caregiving agency] to try to determine which one was going to be the best” for him to work for. Transcript at 27–28.

(5) Order No. 25-UI-310259, issued on November 12, 2025, concluded that claimant did not meet the actively seeking work requirements for the weeks of August 17 through 30, 2025 (weeks 34-25 through 35-25), but was nevertheless entitled to benefits for those weeks because claimant “detrimentally relied on” information given to him by a WorkSource office representative regarding eligibility requirements. Order No. 25-UI-310259 at 5. When claimant filed his application for review on December 2, 2025, he did not indicate that he disagreed with the order under review’s determination regarding weeks 34-25 and 35-25, or otherwise assign error to the portions of the order under review allowing him benefits for those two weeks.

CONCLUSIONS AND REASONS: Claimant did not actively seek work during weeks 32-25 through 33-25 and therefore was not eligible for benefits for those weeks. Claimant’s application for review presents no justiciable controversy as to his eligibility for benefits for weeks 34-25 through 35-25, and his application for review is therefore dismissed as to those weeks.

Weeks 32-25 through 33-25. 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 21, 2022). “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).

Where the Department has paid benefits, it has the burden to prove benefits should not have been paid. *Nichols v. Employment Division*, 24 Or App 195, 544 P2d 1068 (1976). 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 Department did not pay claimant benefits for weeks 32-25 or 33-25 on the basis that he failed to actively seek work during those weeks. Claimant has not met his burden to show otherwise. At hearing, claimant offered evidence to show that he was engaged in ongoing discussions with a prospective employer during the weeks at issue, and that he had “multiple contacts with [the caregiving agency] every week.” Claimant’s witness also testified that claimant had “looked at different companies [other than [the caregiving agency] to try to determine which one was going to be the best” for him to work for. Claimant did not offer evidence to show how frequently he contacted the caregiving agency during any of the weeks at issue, however. Neither did he or his witness explain what having “looked at different companies” consisted of or when he did so. In sum, claimant failed to show that he performed at least five work seeking activities, including at least two direct contacts with prospective employers, during each or either of weeks 32-25 or 33-25. Claimant therefore was not eligible for benefits for those weeks. While claimant also did not show that he met the actively seeking work requirements for weeks 34-25 or 35-25, EAB declines to further address claimant’s eligibility for the latter two weeks, as explained below.

Weeks 34-25 through 35-25. On December 2, 2025, claimant filed with EAB an application for review of an order that was partially favorable to him, as it modified decision # L0012930762 by allowing him benefits for weeks 34-25 through 35-25. 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).

Claimant did not assign error to the portions of Order No. 25-UI-310259 allowing him benefits for weeks 34-25 through 35-25, did not request reversal of those portions of the order, and alleged no facts entitling him to further relief in regard to those two weeks. Because EAB’s review of those two weeks could not provide substantive relief to the appellant, such review would have no practical effect on the appellant’s rights. Accordingly, there is no justiciable controversy before EAB regarding weeks 34-25 through 35-25 based upon claimant’s application for review. Because review of claimant’s eligibility for weeks 34-25 through 35-25 presents no justiciable controversy, the application for review of Order No. 25-UI-310259 is dismissed as to those weeks, leaving the order under review’s conclusion regarding those weeks undisturbed.

In sum, claimant did not actively seek work during weeks 32-25 through 33-25 and was not eligible for those weeks. Claimant’s application for review presented no justiciable controversy regarding weeks 34-25 through 35-25, as the order under review allowed him benefits for those weeks, and the application for review is therefore dismissed as to those weeks.

DECISION: Order No. 25-UI-310259 is affirmed as to weeks 32-25 through 33-25. Claimant’s application for review is dismissed as to weeks 34-25 through 35-25.

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

DATE of Service: January 13, 2026

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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