

**EMPLOYMENT APPEALS BOARD DECISION**  
**2026-EAB-0321**

*Affirmed*  
*Late Request for Hearing Allowed*  
*Ineligible Week 15-21*

**PROCEDURAL HISTORY:** On August 23, 2021, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant was not available for work during the week of April 11, 2021 through April 17, 2021 (week 15-21), and was therefore ineligible to receive unemployment insurance benefits for that week (decision # 165231). On September 13, 2021, decision # 165231 became final without claimant having filed a request for hearing. On December 30, 2025, claimant filed a late request for hearing. ALJ Kangas considered the request, and on January 7, 2026 issued Order No. 26-UI-316284, dismissing the request as late, subject to claimant's right to renew the request by responding to an appellant questionnaire by January 21, 2026. On January 13, 2026, claimant filed an appellant questionnaire response. On February 26, 2026, the Office of Administrative Hearings (OAH) mailed a letter to claimant stating that Order No. 26-UI-316284 was vacated and that a hearing would be scheduled to determine whether the late request for hearing should be allowed and, if so, the merits of decision # 165231. On March 20, 2026, ALJ Janzen conducted a hearing at which the Department failed to appear, and on March 24, 2026 issued Order No. 26-UI-324782, allowing claimant's late request for hearing and affirming decision # 165231 on the merits. On March 31, 2026, claimant filed an application for review with the Employment Appeals Board (EAB).

**PARTIAL ADOPTION:** EAB considered the entire hearing record, including witness testimony and any exhibits admitted as evidence. EAB agrees with the part of Order No. 26-UI-324782 allowing claimant's late request for hearing. That part of Order No. 26-UI-324782 is **adopted**. See ORS 657.275(2).

**FINDINGS OF FACT:** (1) On March 30, 2020, claimant filed an initial claim for unemployment insurance benefits. The claim was determined to be monetarily valid, initially for regular unemployment insurance (regular UI) benefits. Claimant thereafter claimed benefits for the week of April 11, 2021 through April 17, 2021 (week 15-21). This is the week at issue. Claimant was paid benefits for the week at issue.

(2) During April 2021, claimant was employed by Edward Wadsworth for Hair. From April 13, 2021 through April 16, 2021, claimant was granted time off work to provide care for her mother. Claimant's mother had suffered a "medical accident" and during that period was "unable to walk, go to the bathroom on her own, [or] eat on her own." Audio Record at 20:55.

(3) Had claimant not requested to be off work from April 13, 2021 through April 16, 2021, the employer would have allowed her to work those days.

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

Under ORS 657.155(1)(c), to be eligible for benefits for a week, a claimant must be available for work as defined by OAR 471-030-0036 (effective August 2, 2020 through September 25, 2021). That version of the rule provided, in relevant part:

\* \* \*

(3) For the purposes of ORS 657.155(1)(c), an individual shall be considered available for work if, at a minimum, [the individual] is:

(a) Willing to work full time, part time, and accept temporary work opportunities, during all of the usual hours and days of the week customary for the work being sought, unless such part time or temporary opportunities would substantially interfere with return to the individual's regular employment; and

(b) Capable of accepting and reporting for any suitable work opportunities within the labor market in which work is being sought, including temporary and part time opportunities; and

(c) Not imposing conditions which substantially reduce the individual's opportunities to return to work at the earliest possible time; and

(d) Physically present in the normal labor market area as defined by section (6) of this rule, every day of the week\* \* \* [.]

\* \* \*

(f) For the purposes of ORS 657.155(1)(c), an individual is not available for work in any week claimed if:

(A) The individual has an opportunity to perform suitable work during the week and fails to accept or report for such work due to illness, injury or other temporary physical or mental incapacity.

\* \* \*

\* \* \*

\* \* \*

However, during a state of emergency declared by the Governor under ORS 401.165, the Department may waive, otherwise limit, or modify the requirements of OAR 471-030-0036. OAR 471-030-0071 (September 13, 2020). Under this authority, from September 13, 2020 through August 7, 2021 the Department “continu[ed] to exercise the same benefit eligibility flexibility” regarding availability for work that had existed under Temporary OAR 471-030-0070 (effective March 8, 2020 through September 12, 2020). December 16, 2020 memorandum from Lisa Shriver, UI Division Deputy Director for Operations and Policy, entitled “Coronavirus (COVID-19) and AAA requirements – Updated.”

Temporary OAR 471-030-0070(5) states that a person will not be deemed unavailable for work because:

- (a) They are staying in their home, or are quarantined, due to risk of exposure to, or spread of, the novel coronavirus at the advice of a health care provider or by advice issued by public health officials or by directive of a government official, even if their employer had work for them they could otherwise have performed;
- (b) They are home solely because they lack childcare for a child or children due to school or daycare closures or curtailments;
- (c) They are home to care for a family member due to the effects of novel coronavirus; or
- (d) They normally work less than full-time and are only available for less than full-time work.

During the week at issue, claimant requested and was granted four days off work that her employer would have otherwise allowed her to work. Claimant’s request for time off demonstrated that, under OAR 471-030-0036(3)(b), she was not capable of reporting for a suitable work opportunity during those four days due to the need to provide care for her mother. Claimant therefore did not meet the requirements to be considered available for work during the week at issue under the standard rule.

Temporary exceptions to the standard availability for work rule were in place during the week at issue in response to the COVID-19 pandemic. However, claimant testified that her mother’s health issues that necessitated care resulted from a “medical accident,” and the record does not suggest that either claimant or her mother had been diagnosed with, or were experiencing symptoms of, a COVID-19 infection during the week at issue. Audio Record at 20:55. Similarly, the record does not suggest that claimant or her mother had been directed to quarantine by a healthcare provider, public health official, or government official due to actual or potential COVID-19 exposure. As such, none of the temporary exceptions to the standard availability rule apply. Accordingly, claimant was not available for work during the week of April 11, 2021 through April 17, 2021 (week 15-21), and is not eligible to receive unemployment insurance benefits for that week.

**DECISION:** Order No. 26-UI-324782 is affirmed.

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

**DATE of Service: May 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 desisyong ito.

## 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 الإستئناف 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 دستور العمل موجود در پایان آن، از دادگاه تجدید نظر اورگان درخواست تجدید نظر کنید.

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