

EMPLOYMENT APPEALS BOARD DECISION
2026-EAB-0409

Affirmed - Ineligible Week 35-24
Reversed – Eligible Weeks 37-24 through 39-24 and Weeks 42-24 through 51-24

PROCEDURAL HISTORY: On September 18 and 24, 2025, the Oregon Employment Department (the Department) served notice of administrative decisions concluding that claimant filed late claims for benefits for the weeks of August 25 to 31, 2024 (week 35-24), September 8 to 14, 2024 (week 37-24), September 15 to 21, 2024 (week 38-24), September 22 to 28, 2024 (week 39-24), and October 13 to 19, 2024 (week 42-24), and was ineligible for benefits for those weeks (decisions # L0013018356, L0012940271, L0013102206, L0012912981, and L0012955460, respectively).

On September 18 and 24, 2025, the Department also served notice of administrative decisions concluding that claimant filed late claims for benefits for the weeks of October 20 to 26, 2024 (week 43-24), October 27 to November 2, 2024 (week 44-24), November 3 to 9, 2024 (week 45-24), November 10 to 16, 2024 (week 46-24), and November 17 to 23, 2024 (week 47-24), and was ineligible for benefits for those weeks (decisions # L0012982155, L0013086166, L0013090112, L0012942657, and L0012917793, respectively).

On September 18, 19, and 24, 2025, the Department served notice of administrative decisions concluding that claimant filed late claims for benefits for the weeks of November 24 to 30, 2024 (week 48-24), December 1 to 7, 2024 (week 49-24), December 8 to 14, 2024 (week 50-24), and December 15 to 21, 2024 (week 51-24), and was ineligible for benefits for those weeks (decisions # L0013000715, L0012924332, L0013156964, and L0013067452).

Claimant filed timely requests for hearing on all fourteen administrative decisions. On April 20, 2026, ALJ Blam conducted a hearing on the administrative decisions, and on April 22, 2026, issued Orders No. 26-UI-327940, 26-UI-327943, 26-UI-327955, 26-UI-327958, 26-UI-327949, 26-UI-327957, 26-UI-327934, 26-UI-327946, 26-UI-327941, 26-UI-327937, 26-UI-327954, 26-UI-327939, 26-UI-327956, and 26-UI-327952, affirming decisions # L0013018356, L0012940271, L0013102206, L0012912981, L0012955460, L0012982155, L0013086166, L0013090112, L0012942657, L0012917793, L0013000715, L0012924332, L0013156964, and L0013067452, respectively.

On April 27, 2026, claimant filed applications for review of Orders No. 26-UI-327940, 26-UI-327943, 26-UI-327955, 26-UI-327958, 26-UI-327949, 26-UI-327957, 26-UI-327934, 26-UI-327946, 26-UI-327941, 26-UI-327937, 26-UI-327954, 26-UI-327939, 26-UI-327956, and 26-UI-327952 with the Employment Appeals Board (EAB). EAB combined its review of the orders. For case-tracking purposes, this decision is being issued in duplicate (EAB Decisions 2026-EAB-0402, 2026-EAB-0404, 2026-EAB-0410, 2026-EAB-0399, 2026-EAB-0406, 2026-EAB-0412, 2026-EAB-0409, 2026-EAB-0405, 2026-EAB-0403, 2026-EAB-0400, 2026-EAB-0408, 2026-EAB-0401, 2026-EAB-0411, and 2026-EAB-0407).

WRITTEN ARGUMENT: EAB considered claimant’s argument in reaching these decisions.

FINDINGS OF FACT: (1) On August 20, 2024, claimant filed an initial claim for benefits. The Department determined that claimant had a valid claim with a first effective week of August 18 to 24, 2024 (week 34-24).

(2) To claim a week of benefits, a claimant was required to file a weekly claim form. Among other methods, the Department allowed weekly claim forms to be filed via Frances Online or via an interactive voice response (IVR) telephone claims line. Claimant did not claim benefits for week 34-24.

(3) Claimant’s failure to claim week 34-24 counted as a break in continuous reporting that required claimant to “restart” his initial claim. Transcript at 10. Restarting the initial claim required claimant to answer a few questions about his work status and could be done via Frances Online or over the phone with the assistance of a Department representative. Until claimant restarted his initial claim, Frances Online and the IVR telephone claims line were not available to be used to claim a week of benefits.

(4) Under the Department’s rules, to claim a week of benefits timely, claimant needed to file his claim no later than seven days after the end of the week. However, the Department allowed a week of benefits to be claimed more than seven days after the end of the week when it considered someone to have been prevented from claiming because of a barrier. Transcript at 22.

(5) Claimant wished to claim the week of August 25 to 31, 2024 (week 35-24), but was unable to do so using Frances Online or the IVR telephone claims line because he had not restarted his initial claim. As a result, claimant was unsuccessful in claiming week 35-24 within seven days after the end of the week.

(6) Claimant wished to claim the week of September 1 to 7, 2024 (week 36-24), but, because of the restart issue, was unable to use Frances Online or the IVR telephone claims line to do so. On September 9, 2024, during the seven days following the end of week 36-24, claimant called the Department regarding his Frances Online account and received assistance from two representatives, but the representatives did not offer to restart claimant’s initial claim or take his claim form for week 36-24. Claimant was unsuccessful in claiming week 36-24 within seven days after the end of the week. However, the Department later considered claimant to have been prevented from claiming week 36-24 because of a barrier based on the representatives’ failure to offer to restart claimant’s initial claim or take his claim form for week 36-24.

(7) Claimant wished to claim the weeks from September 8 to 28, 2024 (weeks 37-24 through 39-24), but, because of the restart issue, was unable to use Frances Online or the IVR telephone claims line to do so and was unsuccessful in claiming the weeks.

(8) Claimant wished to claim the week of September 29 to October 5, 2024 (week 40-24), but, because of the restart issue, was unable to use Frances Online or the IVR telephone claims line to do so. On October 10, 2024, during the seven days following the end of week 40-24, claimant communicated with the Department via web notice and advised that he had completed a required task at a WorkSource Oregon office “to be able to . . . start claiming.” Transcript at 22. On or about that date, claimant spoke to a Department representative, but the representative did not offer to restart claimant’s initial claim or take his claim form for week 40-24. Claimant was unsuccessful in claiming week 40-24 within seven days after the end of the week. However, the Department later considered claimant to have been prevented from claiming week 40-24 because of a barrier, noting that, “[H]ad [claimant] received timely and adequate assistance” when he contacted the Department on October 10, 2024, he “would have been able to file [his] week timely.” Transcript at 22.

(9) Claimant wished to claim the week of October 6 to 12, 2024 (week 41-24), but, because of the restart issue, was unable to use Frances Online or the IVR telephone claims line to do so. On October 15, 2024, during the seven days following the end of week 41-24, claimant communicated with the Department via web notice requesting assistance for claiming the week. A Department representative helped claimant by giving him details regarding a separate required task, but the representative did not offer to restart claimant’s initial claim or take his claim form for week 41-24. Claimant was unsuccessful in claiming week 41-24 within seven days after the end of the week. However, the Department later considered claimant have been prevented from claiming week 41-24 because of a barrier based on the representative’s failure to offer to restart claimant’s initial claim or take his claim form for week 41-24.

(10) Thereafter, claimant wished to claim the weeks of October 13, 2024 to December 21, 2024 (weeks 42-24 through 51-24). However, because of the restart issue, claimant was unable to use Frances Online or the IVR telephone claims line to claim, and so was unsuccessful in claiming the weeks.

(11) In May 2025, claimant restarted his initial claim. On September 16, 2025, a Department representative assisted claimant in claiming the weeks of August 25 to December 21, 2024 (weeks 35-24 through 51-24). Because of the barrier issues noted above, the Department gave claimant waiting week credit for week 36-24, and paid claimant for weeks 40-24 and 41-24. The Department considered weeks 35-24, 37-24 through 39-24, and 42-24 through 51-24, to have been claimed late, and so did not pay claimant for those weeks. Weeks 35-24, 37-24 through 39-24, and 42-24 through 51-24 are the weeks at issue.

(12) The Department did not explain why it did not extend the barrier exception to weeks 35-24, 37-24 through 39-24, and 42-24 through 51-24.

CONCLUSIONS AND REASONS: Claimant filed an untimely claim for benefits for week 35-24 and is not eligible to receive benefits for that week. For weeks 37-24 through 39-24, and weeks 42-24 through 51-24, claimant filed a timely claim for benefits and is eligible to receive benefits for those weeks, unless otherwise ineligible.

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, as here, benefits have not been paid, claimant has the burden to prove that the Department should have paid benefits.

ORS 657.155(1)(b) provides that an unemployed individual shall be eligible to receive benefits with respect to any week only if the individual has made a claim for benefits with respect to such week in accordance with ORS 657.260. ORS 657.260(1) provides that claims for benefits shall be filed in accordance with such regulations as the Department may prescribe. OAR 471-030-0045 (January 11, 2018) provides, in relevant part:

(1) As used in these rules, unless the context requires otherwise:

(a) “Continued Claim” means an application that certifies to the claimant’s completion of one or more weeks of unemployment and to the claimant’s status during these weeks. The certification may request benefits, waiting week credit, or non-compensable credit for such week or weeks. A continued claim must follow the first effective week of an initial, additional or reopen claim, or the claimant’s continued claim for the preceding week[.]

* * *

(4) A continued claim must be filed no later than seven days following the end of the week for which benefits, waiting week credit, or noncompensable credit, or any combination of the foregoing is claimed, unless:

(a) The continued claim is for the first effective week of the benefit year, in which case the week must be claimed no later than 13 days following the end of the week for which waiting week credit is claimed[.]

* * *

(5) The Director may, with respect to individual claimants or groups of claimants, direct that continued claims be filed on any reporting schedule appropriate to existing facilities and conditions.

* * *

Under OAR 471-030-0045(4), the continued claims for benefits for weeks 35-24, 37-24 through 39-24, and 42-24 through 51-24 were each due within seven days after the end of each respective week. With the assistance of a Department representative, claimant filed his claims for each of those weeks on September 16, 2025, which was more than seven days after the end of each respective week.

As to week 35-24, claimant was unable to claim the week via Frances Online or the IVR telephone claims line because he had failed to claim the prior week, week 34-24, which counted as a break in continuous reporting that required claimant to restart his initial claim. Absent a restart, the Frances Online and IVR telephone claims line were not available to be used to claim week 35-24. Restarting the

initial claim required claimant to answer a few questions about his work status and could have been done via Frances Online or over the phone with the assistance of a Department representative. Claimant could have used these methods to restart his initial claim and then claim week 35-24 in a timely fashion. However, claimant failed to do so and therefore is ineligible for benefits for week 35-24 because he did not comply with OAR 471-030-0045(4).

However, OAR 471-030-0045(5) authorizes the Department to use a different reporting schedule appropriate to existing facilities and conditions, and this provision bears on claimant's weekly claims for weeks 37-24 through 39-24, and 42-24 through 51-24. Apparently invoking OAR 471-030-0045(5), the Department's witness at hearing testified that the Department allowed weeks to be claimed more than seven days after the end of the week in situations where a claimant is prevented from claiming because of a barrier. Transcript at 22. The witness further testified that the Department considered this barrier exception to be applicable to weeks 36-24, 40-24 and 41-24, because within seven days of each of those weeks, claimant communicated with Department representatives, but the representatives did not offer to restart claimant's initial claim or take his claim form for the weeks. Transcript at 22-23. The witness did not know why the Department did not extend this barrier exception to weeks 37-24 through 39-24, and 42-24 through 51-24. Transcript at 23.

The record shows that, under OAR 471-030-0045(5), the barrier exception that the Department applied to weeks 36-24, 40-24 and 41-24 should apply with equal force to weeks 37-24 through 39-24, and 42-24 through 51-24. This is so because the representatives' failures to restart claimant's initial claim or take his claim form during claimant's call with them on September 9, 2024 represented just as much of a barrier to his claiming weeks 37-24 through 39-24 as it had week 36-24. Likewise, as to weeks 42-24 through 51-24, claimant was beset with a barrier to claiming attributable to the representatives' failures to adequately assist on September 9, 2024, as well as on October 10 and 15, 2024. Just as the Department's failure to provide "timely and adequate assistance" when claimant made contact on October 10, 2024 justified applying the barrier exception to week 40-24, it warrants the same for weeks 42-24 through 51-24. Transcript at 22. And just as the Department's failure to restart claimant's initial claim or take his claim form during the October 15, 2024 contact justified extending the barrier exception to week 41-24, it likewise warranted doing the same for weeks 42-24 through 51-24.

Therefore, as to weeks 37-24 through 39-24, and 42-24 through 51-24, claimant faced a barrier that prevented him from filing his weekly claims for benefits. For this reason, the weekly claims for benefits for those weeks were timely. This is because, pursuant to OAR 471-030-0045(5), they were filed under a different reporting schedule appropriate to existing facilities and conditions via the barrier exception outlined by the Department's witness at hearing. Claimant therefore is eligible for benefits for weeks 37-24 through 39-24, and 42-24 through 51-24, unless otherwise ineligible for benefits for those weeks. Claimant is not eligible to receive benefits for week 35-24, because his weekly claim for that week was untimely and was not filed under a different reporting schedule appropriate to existing facilities and conditions via the barrier exception per OAR 471-030-0045(5).

DECISION: Order No. 26-UI-327940 is affirmed. Orders No. 26-UI-327943, 26-UI-327955, 26-UI-327958, 26-UI-327949, 26-UI-327957, 26-UI-327934, 26-UI-327946, 26-UI-327941, 26-UI-327937, 26-UI-327954, 26-UI-327939, 26-UI-327956, and 26-UI-327952 are set aside, as outlined above.

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

DATE of Service: June 8, 2026

NOTE: Except for week 35-24, these consolidated decisions reverse the ALJ's orders denying claimant benefits. Please note that in most cases, payment of benefits owed will take about a week for the Department to complete.

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

ទោរទៅ – តម្រូវការនេះមិនមែនជាភារកិច្ចរបស់យើងទេ បើសិនជាលោកអ្នកមិនយល់ស្របចំពោះសេចក្តីសម្រេចនេះទេ លោកអ្នកអាចដាក់ពាក្យប្តឹងសុំឲ្យមានការពិនិត្យរឿងក្តីឡើងវិញជាមួយតុលាការឧទ្ធរណ៍រដ្ឋ Oregon ដោយអនុវត្តតាមសេចក្តីណែនាំដែលសរសេរនៅខាងចុងបញ្ចប់នៃសេចក្តីសម្រេចនេះ។

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 دستورالعمل موجود در پایان آن، از دادگاه تجدید نظر اورگان درخواست تجدید نظر کنید.

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