

EMPLOYMENT APPEALS BOARD DECISION
2026-EAB-0438

*Orders No. 26-UI-328162, 26-UI-328040, 26-UI-328038, and 26-UI-328039 Modified
Late Requests for Hearing Allowed
Claims Timely for Weeks 34-25 through 37-25*

PROCEDURAL HISTORY: On January 28, 2026, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant filed a late claim for benefits for the week of August 17 through 23, 2025 (week 34-25) and was ineligible for benefits for that week (decision # L0015818117). On February 5, 2026, the Department issued three administrative decisions concluding that claimant filed late claims for benefits for the weeks from August 24 through September 13, 2025 (weeks 35-25, 36-25, and 37-25) and was ineligible for benefits for those weeks (decisions # L0015900996, L0015813463, and L0015910242, respectively). On February 17, 2026, decision # L0015818117 became final without claimant having filed a request for hearing. On February 24, 2026, claimant filed a late request for hearing on decision # L0015818117. On February 25, 2026, decisions # L0015900996, L0015813463, and L0015910242 became final without claimant having filed a request for hearing. On March 12, 2026, claimant filed late requests for hearing on decisions # L0015900996, L0015813463, and L0015910242.

On April 13, 2026, ALJ S. Lee conducted a combined¹ hearing, and on April 22, 2026 issued Orders No. 26-UI-328040, 26-UI-328038, and 26-UI-328039, allowing claimant's late requests for hearing and affirming decisions # L0015900996, L0015813463, and L0015910242, respectively, on the merits. On April 23, 2026, ALJ S. Lee issued Order No. 26-UI-328162, allowing claimant's late request for hearing and affirming decision # L0015818117 on the merits.

On May 7, 2026, claimant filed applications for review of Orders No. 26-UI-328162, 26-UI-328040, 26-UI-328038, and 26-UI-328039 with the Employment Appeals Board (EAB). EAB combined its review of the orders under OAR 471-041-0095 (October 29, 2006). For case-tracking purposes, this decision is being issued in quadruplicate (EAB Decisions 2026-EAB-0435, 2026-EAB-0438, 2026-EAB-0436, and 2026-EAB-0437).

¹ The hearing also addressed claimant's appeals of two other administrative decisions (decisions # L0015962876 and L0015902976). Claimant's appeals from the orders affirming those administrative decisions are addressed in a separate EAB decision.

PARTIAL ADOPTION: EAB considered the entire combined hearing record, including witness testimony and any exhibits admitted as evidence. EAB agrees with the parts of Orders No. 26-UI-328040, 26-UI-328038, 26-UI-328039, and 26-UI-328162 allowing claimant's late requests for hearing on decisions # L0015900996, L0015813463, L0015910242, and L0015818117, respectively. Those parts of Orders No. 26-UI-328040, 26-UI-328038, 26-UI-328039, and 26-UI-328162 are **adopted**. See ORS 657.275(2).

FINDINGS OF FACT: (1) On July 2, 2025, claimant filed an initial claim for benefits that the Department determined was monetarily valid.

(2) On August 11, 2025, the Department issued an administrative decision concluding that claimant was disqualified from receiving benefits based on a work separation.

(3) On August 12, 2025, claimant went to a WorkSource office for assistance with her claim and spoke with a Department representative. Claimant told the representative that she had severe dyslexia and was unable to read and understand correspondence from the Department or file claims in writing or online. The representative told claimant about the work separation administrative decision and helped her file a request for hearing on it, but did not read or otherwise explain to claimant the advisement written on the decision stating that she must continue making weekly claims while the appeal was pending. To accommodate her difficulty reading, claimant was advised to file weekly claims by phone and to seek assistance by phone or at a WorkSource office.

(4) On approximately August 24, 2025, claimant attempted to file a continued claim by phone for the week of August 17 through 23, 2025 (week 34-25), but the system told her that she was unable to claim that week and ended the call. Claimant believed that her pending appeal was preventing her from filing the weekly claim, and that she could later file late claims if the appeal was resolved in her favor. Claimant therefore did not attempt to file claims for several months. Claimant also began part-time employment in September 2025, and for that additional reason did not file weekly claims because she believed that such employment made her ineligible for benefits.

(5) On January 14, 2026, the Office of Administrative Hearings (OAH) issued an order reversing the work separation administrative decision, concluding that claimant was not disqualified from receiving benefits based on the separation.

(6) On January 22, 2026, claimant spoke with a Department representative by phone, requesting to file weekly claims for the period her appeal had been pending. The representative filed a claim for the week of August 17 through 23, 2025 (week 34-25) on claimant's behalf.

(7) On January 27, 2026, a representative filed claims for the weeks of August 24 through September 13, 2025 (weeks 35-25 through 37-25) on claimant's behalf. Weeks 34-25 through 37-25 are the weeks at issue. The Department did not pay claimant benefits for the weeks at issue. Following the filing of these claims, an adjudicator sent claimant a written request for information regarding why the claims had been filed late.

(8) On January 29, 2026, claimant called the Department and requested that the adjudicator speak with her by phone to obtain the requested information, due to claimant's limitations in reading and writing.

Claimant was advised to go to a WorkSource office for assistance, as the adjudicator might not call her back. Claimant did not receive a call from the adjudicator and did not provide a written response to the request for information due to limitations posed by her disability.

CONCLUSIONS AND REASONS: Claimant's continued claims for weeks 34-25 through 37-25 are considered timely.

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;

* * *

(2) A claimant, in order to obtain benefits, waiting week credit, or non-compensable credit for a week of unemployment, must file a continued claim for the week by any method approved by the Director.

* * *

(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, or

* * *

(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.

* * *

Claimant's continued claim for week 34-25 was filed on January 22, 2026, and claims for weeks 35-25 through 37-25 were filed on January 27, 2026, more than seven days after the end of each of those weeks. The orders under review concluded that claimant's failure to file each of the continued claims at issue within seven days of the end of the week claimed resulted from claimant's "fundamental misunderstanding" of unemployment insurance procedures and policies, and that the Department had "no authority" to backdate a continued claim more than seven days after the end of the benefit week. *See, e.g.*, Order No. 26-UI-328162 at 5. The record does not fully support these conclusions. OAR 471-030-0045(4) requires continued claims, except a claim for the first effective week of the benefit year, to be filed within seven days after the end of the week claimed, and does not provide for backdating of such claims. However, OAR 471-030-0045(5) permits the Department to modify claim filing schedules for individual claimants "appropriate to existing facilities and conditions." That the Department requested information from claimant as to why these four continued claims were filed late suggests that, in practice, the Department evaluates continued claims filed after the seven-day deadline for Department-related barriers to timely filing, and considers the claim timely if such a barrier existed. Claimant asked to provide this information by phone due to her disability during the adjudication process, but the Department did not accommodate that request, and therefore denied the claims at issue without full knowledge of the circumstances that prevented timely filing. It is therefore appropriate to consider whether claimant faced Department-related barriers to timely filing that would justify a modified filing schedule under OAR 471-030-0045(5).

The record shows that claimant stopped filing continued claims after an August 12, 2025 conversation with a Department representative regarding a work separation disqualification that claimant appealed that day with the representative's assistance. Claimant told the representative that she was unable to read or understand written correspondence due to a disability and requested accommodation from the Department. The representative suggested in response that claimant thereafter file continued claims each week by phone. Claimant's testimony implied that she believed this was advice regarding only the *method of* filing, and not an explanation of filing rules or deadlines, such as the requirement that a claimant file timely continued claims while an appeal is pending, which claimant did not understand following the representative's explanation of the separation decision. *See, e.g.*, Transcript at 50 ("I thought they were of knowledge each week [of the pending work separation appeal]. I didn't know that I had to keep on opening a claim each week I was denied. I was not of knowledge of that until January when they told me that.") Claimant's testimony implied that she believed the representative, aware of her need for accommodation related to her inability to read, had provided her with all relevant information contained within the work separation administrative decision that the representative explained to her and assisted her with appealing. Therefore, on or around August 24, 2025, when claimant attempted to file a continued claim by phone and the system would not let her do so, she mistakenly assumed that it was due to her pending appeal and did not immediately seek further assistance, planning to file the claims later if her appeal was successful.² On January 22, 2026, approximately one week after claimant prevailed in the work separation appeal, she contacted the Department asking to file continued claims for the weeks while the appeal had been pending. The claim for week 34-25 was filed that day, and the claims for weeks 35-25 through 37-25 on January 27, 2026.

² Claimant suggested at hearing that obtaining part-time work in September 2025 also factored into the decision not to attempt to file some continued claims around that time. Transcript at 50. However, it is unclear whether this affected any of the four weeks at issue, August 17 through September 13, 2025. Even if so, this reason was secondary to claimant's mistaken belief that her pending work separation appeal was preventing her from filing continued claims, which was the primary reason she did not attempt to file continued claims for the weeks at issue.

Claimant did not attempt to file any of the continued claims for the weeks at issue within the seven-day deadline for doing so, due to the phone filing system telling her in August 2025 that she was unable to file a continued claim, which led her to mistakenly believe that the reason was her pending work separation appeal, and that she could not file further continued claims unless and until she prevailed in that appeal. Due to a disability, claimant was unable to read the work separation administrative decision herself, including its admonition that she must file timely continued claims while the appeal was pending. Claimant therefore relied on a Department representative to explain the contents of that administrative decision to her, and that admonition was either inadequately conveyed to her, or not conveyed at all. As the Department was aware at that time of claimant's need for accommodation, it bears responsibility for claimant not being adequately informed regarding filing requirements while her appeal was pending. Claimant therefore faced a Department-related barrier to filing claims for the weeks at issue that would justify use of the Department's OAR 471-030-0045(5) authority. Accordingly, claimant's continued claims for the weeks of August 17 through September 13, 2025 (weeks 34-25 through 37-25) are considered timely, and claimant is eligible for benefits for those weeks if all other eligibility requirements are met.³

DECISION: Orders No. 26-UI-328162, 26-UI-328040, 26-UI-328038, and 26-UI-328039 and are modified, as outlined above.

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

DATE of Service: June 17, 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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³ Claimant has other appeals pending before EAB that are addressed in separate decisions.



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

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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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