

EMPLOYMENT APPEALS BOARD DECISION
2026-EAB-0439

Modified
Requests for Hearing Timely Filed
Eligible Weeks 35-25 & 36-25

PROCEDURAL HISTORY: On February 5, 2026, the Oregon Employment Department (the Department) served notice of two administrative decisions concluding that claimant did not actively seek work during the weeks from August 24, 2025 through September 6, 2025 (weeks 35-25 through 36-25) and was not eligible for benefits for those weeks (decisions # L0015902976 and L0015962876, respectively). On February 25, 2025, decisions # L0015902976 and L0015962876 became final without claimant having submitted filings that the Department recognized as timely requests for hearing on those decisions. On March 12, 2026, claimant filed late requests for hearings on both administrative decisions.

On April 13, 2026, ALJ S. Lee conducted a combined hearing on decisions # L0015902976 and L0015962876.¹ On April 22, 2026, ALJ S. Lee issued Orders No. 26-UI-328037 and 26-UI-328036, concluding that claimant had filed timely requests for hearing on decisions # L0015902976 and L0015962876, respectively, and affirming those decisions on the merits. On May 7, 2026, claimant filed timely applications for review of the ALJ's orders with the Employment Appeals Board (EAB).

EAB combined its review of Orders No. 26-UI-328037 and 26-UI-328036 under OAR 471-041-0095 (October 29, 2006). For case-tracking purposes, this decision is being issued in duplicate (EAB Decisions 2026-EAB-0440 and 2026-EAB-0439).

PARTIAL ADOPTION: EAB considered the entire consolidated hearing record, including witness testimony and any exhibits admitted as evidence. EAB agrees with the parts of Orders No. 26-UI-328037 and 26-UI-328036 concluding that claimant's requests for hearing on decisions # L0015902976

¹ The hearing also included testimony on four other related cases, UI Cases No. 2026-UI-55166, 2026-UI-55949, 2026-UI-55951, and 2026-UI-55975. Decisions addressing the merits of those cases, relating to late-filed claims for benefits, have been issued under separate cover. Additionally, while the Department appeared at the hearing to provide testimony on the late request for hearing and late report issues, they did not provide testimony or offer evidence into the record regarding the actively seeking work issues.

and L0015962876 were timely filed. Those parts of Orders No. 26-UI-328037 and 26-UI-328036 are **adopted**. See ORS 657.275(2).

FINDINGS OF FACT: (1) As a child, claimant was diagnosed with dyslexia. In 2008, when claimant was 26 years old, a psychologist administered a learning disability assessment that indicated, among other findings, that claimant had reading and writing learning disabilities, among other diagnoses. As a result of claimant's learning disabilities, she cannot functionally read or write, and has limited proficiency with computers.

(2) On July 2, 2025, claimant filed an initial claim for benefits with an effective date of June 29, 2025. The Department determined claimant's weekly benefit amount to be \$381.

(3) Claimant claimed benefits for the weeks of August 24, 2025 through September 6, 2025 (weeks 35-25 through 36-25). These are the weeks at issue. The Department did not pay claimant benefits for the weeks at issue.²

(4) On August 12, 2025, claimant spoke to a Department representative on the phone and informed them that she had dyslexia and had difficulty using Frances Online, and requested to receive correspondence from the Department by mail instead of via Frances Online.³ Claimant has, in general, been unable to read most of the correspondence the Department has sent to her.

(5) Claimant sought assistance from a social service agency that provided claimant assistance previously. The agency was unable to fill out job applications on claimant's behalf or provide claimant with other assistance it had previously provided, such as having staff support claimant at a job site, due to budgetary constraints. Claimant did not have family, friends, or other social service agencies that could assist claimant in filling out job applications.

(6) During the weeks at issue, claimant was primarily looking for work as a cashier. In or around September 2025, claimant applied for a job at an Albertson's grocery store, but was not hired. On or around September 11, 2025, claimant applied for a seasonal, part-time position with a Bath and Body Works store. Claimant was hired and began working for them on or around September 20, 2025. Around the same time, claimant applied for work at a Lane Bryant store, but was not hired. Claimant made all of these employment inquiries in person.

(7) At some point during or after the weeks at issue, claimant received help in accessing job postings. However, claimant did not find any listings for cashier jobs in her area, other than two employers for whom she had already worked and with whom she was not eligible for rehire.

² EAB has taken notice of these facts, which are contained in Employment Department records. 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 facts 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.

(8) During the weeks at issue, claimant sought work by contacting potential employers on the phone or in person. However, claimant was not able to keep records of her work-search activities because of her learning disability. Claimant did not report work searches for the weeks at issue.

(9) On January 27, 2026, claimant contacted the Department by phone and again explained that she had difficulty reading because of her learning disability. The representative to whom she spoke advised her to obtain help from a WorkSource Oregon office to report her work search activities.⁴

CONCLUSIONS AND REASONS: The record fails to show claimant met the actively seeking work requirement during the weeks at issue. However, claimant was not given due process regarding notice of the actively seeking work eligibility requirements, and therefore is allowed benefits for the weeks at issue.

To be eligible to receive benefits, unemployed individuals must be able to work, available for work, and actively seek work during each week claimed. ORS 657.155(1)(c). 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).

The record shows that during the weeks at issue, claimant engaged in some work-seeking activities, including direct contacts with employers who might have hired her. However, claimant did not show, by a preponderance of the evidence, that she conducted at least *five* work-seeking activities, at least two of which were direct contacts with employers, during each of the weeks at issue. The record is also clear claimant did work-seeking activities during at least *some* of the weeks at issue and because of a learning disability was unable to maintain a list of activities she completed each week. Therefore, the orders under review correctly concluded that claimant more likely than not did not meet the actively seeking work requirements for the weeks at issue. *See, e.g.*, Order No. 26-UI-328037 at 6. However, more likely than not, the Department failed to provide claimant with reasonable accommodations for her disability, and therefore failed to satisfy due process requirements under the 14th Amendment to the United States Constitution.⁵

29 CFR § 37.8 governs requirements that state agencies, such as the Department, must follow regarding reasonable accommodation and reasonable modification for individuals with disabilities. In relevant part, the Department “must provide reasonable accommodation to qualified individuals with disabilities who are applicants, registrants, eligible applicants/registrants, participants, employees, or applicants for

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⁵ U.S. Const. amend. XIV, §1 provides, in relevant part, “[N]or shall any State deprive any person of... property, without due process of law[.]”

employment, unless providing the accommodation would cause undue hardship.” 29 CFR § 37.8(a). Similarly, under 29 CFR § 37.8(b), the Department “must also make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless making the modifications would fundamentally alter the nature of the service, program, or activity.”⁶ The Department bears the burden of proof to show that any proposed reasonable accommodations would result in undue hardship, or that any proposed reasonable modifications would fundamentally alter the nature of the service, program, or activity. 29 CFR § 37.8(a)(1); 29 CFR § 37.8(b)(1).

The Department was aware of claimant’s limited ability to read and write at least as early as August 12, 2025, which was prior to the weeks at issue. Despite this, the record does not show that claimant was ever given any reasonable accommodations for her learning disabilities, such as a verbal explanation of the various requirements that she must meet to be eligible for benefits, prior to the weeks at issue. The record shows that claimant was advised in January 2026 to seek assistance with the weekly claims at a WorkSource office. Given this, as well as claimant’s limited ability to document work-seeking activities during the weeks at issue, it can be reasonably inferred that the Department did not provide claimant with an advisory, in a format that she could understand and prior to the weeks at issue, of the actively seeking work requirement.

It would likely have been reasonable for the Department to accommodate claimant by either ensuring that the actively seeking work requirements were explained to her verbally over the phone or, as it later did, by advising her to visit a WorkSource office for help. Furthermore, because the Department did not offer evidence into the record regarding the actively seeking work denials at issue here, they have not met their burden under 29 CFR § 37.8(a)(1) to show that such solutions would have constituted undue hardship. Thus, the record does not show, by a preponderance of the evidence, that the Department provided claimant with a reasonable accommodation for her learning disability so that she could understand what the actively seeking work requirement entailed. As such, the Department failed to comply with its duty under 29 CFR § 37.8. The Department therefore did not satisfy claimant’s right to due process before determining that she failed to actively seek work during the weeks at issue, and cannot deny her benefits on that basis.

For the above reasons, claimant is allowed benefits for the weeks at issue, if otherwise eligible.

DECISION: Orders No. 26-UI-328037 and 26-UI-328036 are modified, as outlined above.

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

DATE of Service: June 18, 2026

NOTE: This decision reverses 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.

⁶ The terms “Fundamental alteration,” “reasonable accommodation,” and “undue hardship” are defined under 29 CFR § 37.4.

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 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.

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

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