

EMPLOYMENT APPEALS BOARD DECISION
2026-EAB-0593

Affirmed
Claim Redetermination Allowed

PROCEDURAL HISTORY: On April 8, 2026, the Oregon Employment Department (the Department) served notice of an administrative decision denying claimant's request to include wages in her claim determination (decision # L0016926379). Claimant filed a timely request for hearing. On May 7, 2026, and continuing on May 14, 2026, ALJ Hall conducted a hearing, and on May 22, 2026 issued Order No. 26-UI-331046, reversing decision # L0016926379 by concluding that claimant was entitled to have the requested wages included in a claim redetermination. On June 10, 2026, the Department filed an application for review with the Employment Appeals Board (EAB).

WRITTEN ARGUMENT: EAB considered the Department's argument in reaching this decision.

FINDINGS OF FACT: (1) From 2015 through early 2026, claimant worked as a personal support worker caring for her adult daughter. Claimant was paid with Medicaid funds, and the terms of compensation were set by the state of Oregon. In 2015, the Department of Human Services (DHS) had claimant's daughter register a sole proprietorship in her name for purposes of employing and paying her personal support workers. DHS or an associated entity disbursed claimant's pay, and each year issued W-2 forms reflecting her wages.

(2) For 2024 and 2025, claimant received two W-2 forms each year. One, reflecting the majority of her pay, was issued by "Public Partnerships for OR House Agent for [claimant's daughter]," and the other, reflecting a portion of her overtime pay, was issued by "DHS Personal Care Services Agent for DHS Personal Care Serv[.]" Exhibit 2 at 1-4. Claimant's employment ended when claimant's daughter stopped using claimant as her personal support worker and selected a different person for the position.

(3) On March 21, 2026, claimant filed an initial claim for unemployment insurance benefits. The regular base year was the fourth quarter of 2024 through the third quarter of 2025, and the alternate base year was the first through fourth quarters of 2025. The Department determined that the partial overtime wages reflected in the “DHS Personal Care Services” W-2 forms were wages earned in subject employment, deemed the employer for purposes of those wages to be DHS Personal Care Services, and used the wages in the claim determination. The Department did not include any other wages in the claim at that time, viewing the “Public Partnership” wages as having not been earned in subject employment.

(4) During the May 7, 2026 hearing, the Department learned that claimant had also worked as a delivery driver during 2024 and 2025. The pay from that work had not been previously reported to the Department because both claimant and the delivery company believed the relationship to have been one of an independent contractor, and therefore that the wages had not been earned in subject employment. The Department concluded that these were wages earned in subject employment, and on May 12, 2026, issued an amended Wage and Potential Benefit Report (WPBR), concluding that claimant had a monetarily valid claim using a regular base year and including only the “DHS Personal Care Services”¹ wages and the delivery wages, with a weekly benefit amount (WBA) of \$204 and a maximum benefit amount (MBA) of \$4,548 (decision # L0017682152). The WPBR continued to exclude the “Public Partnership” wages as having not been earned in subject employment. Claimant’s appeal of decision # L0016926379 therefore proceeded with regard to the exclusion of those wages.

CONCLUSIONS AND REASONS: All of claimant’s personal support worker wages were earned in subject employment, and the request for a claim redetermination including those wages is allowed.

ORS 657.020(1) provides:

As used in this chapter, unless the context requires otherwise, “employing unit” means:

(a) Any individual or type of organization, including any partnership, association, limited liability company, limited liability partnership, trust, estate, joint stock company, insurance company or corporation, whether domestic or foreign, or the receiver, trustee in bankruptcy, trustee, or successor thereof, or the legal representative of a deceased person, who has or had in its employ one or more individuals performing services for it within this state.

(b) This state, including every state officer, board, commission, department, institution, branch and agency of the state government.

* * *

¹ Although decision # L0017682152 (the May 12, 2026 amended WPBR) listed the employer for the overtime wages included in the claim determination as “DHS Personal Care Services,” the Department’s argument suggested that a separate but related entity, “Home Care Workers,” should be considered the employer for purposes of assigning those wages. See The Department’s Argument at 1; Decision # L0017682152 at 5. Claimant’s appeal did not challenge those wages, which the Department included in the claim determination on its own. It is within the Department’s discretion to determine which department or agency of the state, if any, those wages should be assigned to.

ORS 657.025(1) provides: “As used in this chapter, unless the context requires otherwise, “employer” means any employing unit which employs one or more individuals in an employment subject to this chapter in each of 18 separate weeks during any calendar year, or in which the employing unit’s total payroll during any calendar quarter amounts to \$1,000 or more.”

ORS 657.030(1) provides: “As used in this chapter, except as provided in ORS 657.035, 657.040 and 657.043 to 657.094, “employment” means service for an employer, including service in interstate commerce, within or outside the United States, performed for remuneration or under any contract of hire, written or oral, express or implied.”

ORS 657.060(1) provides: “‘Employment’ does not include service performed by a person in the employ of a son, daughter, or spouse, and service performed by a child under the age of 18 in the employ of the father or mother.”

ORS 410.619 provides:

(1) A home care worker or personal support worker who is not otherwise employed by the Home Care Commission, the Department of Human Services, the Oregon Health Authority, an area agency or a support services brokerage shall not be deemed to be an employee of the state, whether or not the state selects the home care worker or personal support worker for employment or exercises any direction or control over the home care worker or personal support worker, for the purpose of the state’s liability for the actions of the home care worker or personal support worker.

(2) The state shall be deemed an employer of home care workers or personal support workers for the purposes of:

(a) ORS 410.605, 410.606, 410.612 and 410.614 and ORS chapter 657B; and

(b) ORS chapter 657, except as provided in ORS 657.730 (4) [regarding workforce and labor market information statistics].

In the claim determination (as amended), the Department excluded the majority of claimant’s wages from service as a personal support worker, which were reported on the “Public Partnership” W-2 forms, concluding that those wages had not been earned in subject employment. As the basis for this conclusion, the Department asserted that claimant was performing service in the employ of her daughter, and ORS 657.060(1) excludes such work from being considered subject employment. Even if the Department is correct in asserting that claimant’s daughter was claimant’s employer for some applications of law, she is not considered claimant’s employer for purposes of unemployment insurance law due to ORS 410.619(2).

The Department did not dispute that claimant worked as a personal support worker. ORS 410.619(2) deems home care workers and personal support workers to be employed by “the state” for purposes of unemployment insurance law (ORS chapter 657). Therefore, while a mother in the employ of her daughter may not be performing work in subject employment under ORS 657.060(1) if engaged in other types of occupations, because claimant was performing work as a personal support worker, *the state* is

deemed to be claimant's employer for purposes of that statute, rather than claimant's daughter. Further supporting this interpretation of the combined effect of both provisions is that, prior to ORS 410.619 being amended in 2014 to add subsection (2), a fiscal impact statement prepared for the legislature's consideration of SB 1542 stated, in relevant part:

The fiscal impact to the Employment Department is indeterminate. The bill considers private pay-in home care workers to be state employees for unemployment insurance purposes. If this bill becomes law, the Employment Department anticipates a number of individuals who are currently employees of private parties would transition to employees of the state for purposes of unemployment insurance. This could potentially reduce unemployment insurance taxes paid by private parties, and increase the reimbursements made by the state for unemployment benefits."²

This suggests that the Department's initial interpretation of ORS 410.619(2) in 2014, as well as the legislature's intent in amending the statute that year, was that it made personal support workers eligible for unemployment insurance benefits regardless of who actually employed them, even if the employer was the personal support worker's son, daughter, or spouse. Accordingly, ORS 657.060(1) does not exclude any of claimant's service as a personal support worker from the statutory definition of "employment." The wages at issue were therefore earned in subject employment and must be included in the claim determination.³

For these reasons, claimant's request for a claim redetermination is allowed, as outlined above.

DECISION: Order No. 26-UI-331046 is affirmed.

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

DATE of Service: July 24, 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.

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.

² Fiscal Impact of Proposed Legislation for SB 1542 – B (February 26, 2014) at 3.
<https://olis.oregonlegislature.gov/liz/2014R1/Downloads/CommitteeMeetingDocument/36439> (retrieved July 23, 2026).

³ The record was not developed regarding the quarterly breakdown of these wages within the base year or alternate base year. However, Exhibit 3 appears to contain sufficient information for the Department to make that determination.



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

Phone: (503) 378-2077 | 1-800-734-6949 | Fax: (503) 378-2129 | TDD: 711

Email: appealsboard@employ.oregon.gov

Website: www.Oregon.gov/employ/pages/employment-appeals-board.aspx

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