

EMPLOYMENT APPEALS BOARD DECISION
2026-EAB-0664

Order No. 26-UI-335174 Affirmed
Order No. 26-UI-335179 Modified
Ineligible Weeks 16-26 through 18-26
Eligible Week 19-26

PROCEDURAL HISTORY: On June 17, 2026, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant did not actively seek work during the weeks of April 19, 2026 through May 9, 2026 (weeks 16-26 through 18-26) and was therefore ineligible to receive unemployment insurance benefits for those weeks (decision # L0018166599). Also on June 17, 2026, the Department served notice of an administrative decision concluding that claimant was not available for work during the weeks of April 19, 2026 through May 16, 2026 (weeks 16-26 through 19-26) and was therefore ineligible to receive benefits for those weeks (decision # L0018153967). Claimant filed a timely request for hearing on each decision. On July 8, 2026, ALJ Frank conducted a consolidated hearing at which the Department failed to appear, and on July 16, 2026 issued Orders No. 26-UI-335174 and 26-UI-335179, affirming decisions # L0018166599 and L0018153967, respectively. On July 22, 2026, claimant filed applications for review of Orders No. 26-UI-335174 and 26-UI-335179 with the Employment Appeals Board (EAB).

EAB combined its review of Orders No. 26-UI-335174 and 26-UI-335179 under OAR 471-041-0095 (October 29, 2006). For case-tracking purposes, this decision is being issued in duplicate (EAB Decisions 2026-EAB-0663 and 2026-EAB-0664).

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

FINDINGS OF FACT: (1) On April 21, 2026, claimant filed an initial claim for unemployment insurance benefits that the Department determined was monetarily valid. Thereafter, claimant filed continued claims for the weeks including April 19, 2026 through May 16, 2026 (weeks 16-26 through 19-26). These are the weeks at issue. The Department did not pay claimant benefits for the weeks at issue. Claimant had most recently worked as a nurse prior to filing the initial claim.

(2) During the weeks of April 19, 2026 through May 9, 2026 (weeks 16-26 through 18-26), claimant's wife was ill and he did not seek work because he needed to take care of her and their two-year-old

daughter. For that reason, claimant would not have accepted an offer of full-time or part-time work and did not conduct any work-seeking activities during those weeks.

(3) Beginning on or around May 10, 2026, claimant's wife's condition improved, such that claimant believed he was capable of working night shifts during that week while caring for his wife and daughter during the day. Claimant sought such work during the week.

CONCLUSIONS AND REASONS: Claimant was not available for work and did not actively seek work during the weeks of April 19, 2026 through May 9, 2026 (weeks 16-26 through 18-26). Claimant was available for work during the week of May 10, 2026 through May 16, 2026 (week 19-26).

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).

For an individual to be considered "available for work" for purposes of ORS 657.155(1)(c), they must be:

(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. . . every day of the week * * *.

* * *

OAR 471-030-0036(3) (March 21, 2022).

However, notwithstanding the provisions of OAR 471-030-0036(3), an individual with a circumstance which restricts their availability such as, but not limited to, lack of childcare, caring for an immediate family member or another person in their household, lack of transportation, or attendance in school or training to improve their job skills or long-term employment opportunities, will not be deemed unavailable for work if:

(a) The work the individual is seeking or is otherwise willing to seek is customarily performed during other days and hours in the individual's normal labor market area as defined by OAR 471-030-0036(6); and

(b) The individual is willing and capable of working full time during other days and hours for which they could reasonably expect employers to schedule them.

OAR 471-030-0036(4).

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’s availability to work was restricted by a need to care for his wife and child, making the alternate availability requirements of OAR 471-030-0036(4) applicable. Claimant testified that during the weeks of April 19, 2026 through May 9, 2026 (weeks 16-26 through 18-26), his responsibilities of caring for those family members would have prevented him from accepting any type of work, and that he therefore did not perform any work-seeking activities during those weeks. Audio Record at 13:29. As such, claimant was neither available for work nor actively seeking work during those weeks under the applicable provisions of the rule.

However, these circumstances changed for the week of May 10, 2026 through May 16, 2026 (week 19-26), as claimant’s wife’s condition had improved. In order to be considered available for work under OAR 471-030-0036(4), claimant must show that he was willing and capable of working full time during the days and hours his work was customarily performed and during which he could reasonably expect an employer to schedule him. Claimant testified that during week 19-26 he sought night shift work that would accommodate his need to provide care during the day, and it can reasonably be inferred that employees performing nursing work were customarily scheduled for such hours in claimant’s labor market area. Audio Record at 14:15. Although claimant initially described this as a search for part-time work, he later explained that he was seeking to work three 12-hour night shifts during the week, totaling 36 hours. Audio Record at 16:20. It can reasonably be inferred that this is equivalent to full-time work for occupations with shifts of that duration. Accordingly, claimant met the requirements under OAR 471-030-0036(4) to be considered available for work during week 19-26.

For these reasons, claimant was not available for work and did not actively seek work during the weeks of April 19, 2026 through May 9, 2026 (weeks 16-26 through 18-26), and is not eligible to receive unemployment insurance benefits for those weeks. Claimant was available for work during the week of May 10, 2026 through May 16, 2026 (week 19-26), and is eligible to receive benefits for that week.

DECISION: Order No. 26-UI-335174 is affirmed. Order No. 26-UI-335179 is modified, as outlined above.

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

DATE of Service: September 2, 2026

NOTE: This decision modifies the ALJ's order 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

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

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