

EMPLOYMENT APPEALS BOARD DECISION
2026-EAB-0769

Affirmed
Ineligible Weeks 19-26 through 25-26
Overpayment

PROCEDURAL HISTORY: On July 1, 2026, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant was not actively seeking work from May 10 through June 27, 2026 (weeks 19-26 through 25-26) and was ineligible for benefits for those weeks, and that claimant was overpaid \$1,758 in benefits that he must repay to the Department (decision # L0018569402).¹ Claimant filed a timely request for hearing. On August 11, 2026, ALJ Parnell conducted a hearing, and on August 13, 2026 issued Order No. 26-UI-337332, affirming decision # L0018569402, as amended. On August 28, 2026, claimant filed an application for review with the Employment Appeals Board (EAB).

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

FINDINGS OF FACT: (1) In May 2026, claimant worked for Quality Paint and Construction. That employer notified claimant that he would be laid off due to lack of work from May 8 through June 15, 2026. Shortly before June 15, 2026, claimant learned that the layoff would extend to August 3, 2026.

(2) On May 11, 2026, claimant filed an initial claim for benefits that the Department determined was monetarily valid, with a weekly benefit amount (WBA) of \$586. Claimant thereafter claimed benefits for the weeks of May 10 through June 27, 2026 (weeks 19-26 through 25-26). These are the weeks at issue. Claimant was paid benefits for some of the weeks at issue, totaling \$1,758.

(3) During each of the weeks at issue, claimant did not perform at least five work-seeking activities that included at least two contacts with potential employers. Claimant believed that he met the requirements

¹ On July 20, 2026, the Department issued decision # L0018700529, amending decision # L0018569402 to correct the timeframe of the overpayment. Claimant's request for hearing on decision # L0018569402 is construed to apply to decision # L0018700529.

to be considered “temporarily unemployed” under the Department’s rules and therefore did not perform work-seeking activities other than remaining in contact with his employer and available for work.

CONCLUSIONS AND REASONS: Claimant did not actively seek work during the weeks at issue, and therefore was not eligible for benefits for those weeks. Claimant was overpaid \$1,758 in benefits.

Actively Seeking Work. To be eligible to receive benefits, unemployed individuals must actively seek work during each week claimed. ORS 657.155(1)(c). For individuals who are temporarily unemployed, OAR 471-030-0036(5)(b) (March 21, 2022) defines “actively seeking work” as follows:

(A) They are considered to be actively seeking work when they remain in contact with their regular employer and are capable of accepting and reporting for any suitable work with that employer;

(B) There is a reasonable expectation that they will be returning to work for their regular employer. The work the individual is returning to must be full time or pay an amount that equals or exceeds their weekly benefit amount;

(C) The department will not consider the individual to be temporarily unemployed if they were separated from their employer for reasons other than a lack of work, the work the individual is returning to is not with their most recent employer, or the length the individual is unemployed is longer than the period described in subsection (D) of this section; and

(D) The department will consider that the period for which an individual is temporarily unemployed:

(i) Begins the last date the individual performed services for the employer. In the case of an individual still working for the employer, it is the last date worked during the week in which the individual had earnings less than their weekly benefit amount; and

(ii) Cannot be greater than four weeks between the week the individual became temporarily unemployed and the week the individual returns to work as described in subsection (B) of this section.

Aside from this exception and others 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). “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).

Claimant conceded at hearing that he did not complete five work-seeking activities during any of the weeks at issue. Transcript at 14, 16. Therefore, whether claimant met the requirement to be considered actively seeking work during those weeks turns on whether he met the rule’s definition of “temporarily

unemployed.” To meet that definition, the period of temporary unemployment “[c]annot be greater than four weeks between the week the individual became temporarily unemployed and the week the individual returns to work[.]” OAR 471-030-0036(5)(b)(D)(ii). Claimant last performed services for his employer during the week of May 3 through 8, 2026 (week 18-26) and was initially expected to return to work during the week of June 14 through 20, 2026 (week 24-26). Five weeks elapsed between weeks 18-26 and 24-26, and therefore the period of temporary unemployment was, and had been expected to be, greater than four weeks at the time claimant filed his initial claim. The “temporarily unemployed” exception therefore did not apply, and the standard requirements of OAR 471-030-0036(5)(a) were applicable, which claimant did not meet.

Claimant asserted in his written argument that the Department’s payment of benefits for some of the first few weeks of the claim, rather than promptly notifying him that he did not qualify for the “temporarily unemployed” exception to the standard work-seeking requirements, was at least partially responsible for his failure to meet the standard requirements in those and subsequent weeks. Claimant’s Written Argument at 3. The Department’s representative at hearing testified that the payments were made due to a technical error before an adjudicator had reviewed the claims to determine whether claimant qualified for the exception. Transcript at 19. While it is unfortunate that claimant was not notified sooner that he was mistaken about meeting the durational limitation for the exception to apply, it was a mistake that could have been avoided in the first place by reviewing the text of OAR 471-030-0036(5)(b), or summaries of it in claims materials, and seeking clarification from the Department of any perceived ambiguity before deciding to rely on that exception rather than completing the standard requirements. Although it is possible the effects of claimant’s mistake might have been mitigated to some degree had the Department acted sooner in reviewing this issue, each weekly claim must nevertheless be adjudicated according to the provisions of the rule and the work-seeking activities claimant actually performed.

Claimant also asserted in his argument that because OAR 471-030-0036(5)(b) can allow for an exception of up to four weeks from the standard requirement, a denial of benefits for those four weeks “produces a harsh retroactive result” when the return to work “occurs or is expected shortly after the [four-week] cutoff[.]” Claimant’s Written Argument at 3. However, claimant’s situation is not one where the expected return-to-work date was originally within four weeks of the week he was laid off and was delayed beyond the four-week limit after filing the claim. The record shows that the relevant period was always expected to exceed four weeks. OAR 471-030-0036(5)(b)(C) states, “The department will not consider the individual to be temporarily unemployed if. . . the length the individual is unemployed is longer than the period described in subsection (D) of this section [describing the four-week maximum period between the week in which the layoff occurs and the week of the return to work].” Therefore, the rule precludes application of the exception to *any* benefit week when the relevant period lasts, and was always expected to last, more than four weeks, as was the case here.

For these reasons, claimant was not actively seeking work in accordance with the Department’s rules during the weeks of May 10, 2026 through June 27, 2026 (weeks 19-26 through 25-26) and is therefore ineligible to receive unemployment insurance benefits for those weeks.

Overpayment. A claimant who was overpaid benefits because of an error not caused by the claimant’s false statement, misrepresentation of a material fact or failure to disclose a material fact, or because an initial decision to pay benefits is later reversed by a decision finding the individual is not eligible for the

benefits, must have the amount deducted from future benefits otherwise payable to them. An overpayment may only be deducted from any future benefits the claimant is eligible to receive within the five years after the decision concluding there was an overpayment becomes final. ORS 657.315(1)(a).

The Department paid claimant a total of \$1,758 in benefits for the weeks at issue. As discussed above, claimant was not entitled to receive benefits for those weeks because he was not actively seeking work in accordance with the Department's rules and was therefore ineligible to receive benefits. Claimant provided accurate information in his claims regarding whether he was actively seeking work, and the Department's representative testified that the benefits were paid in error. Accordingly, claimant was overpaid \$1,758 in benefits that, under ORS 657.315(1)(a), he would be liable to repay to the Department through deduction from future benefits. However, the record shows that the Department waived recovery of the overpayment. Transcript at 6. For that reason, claimant is no longer liable to repay it.

DECISION: Order No. 26-UI-337332 is affirmed.

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

DATE of Service: October 8, 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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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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