



# Oregon

Tina Kotek, Governor

**Employment Department**

875 Union Street NE

Salem, Oregon 97311

503-947-1394

employment.oregon.gov

February 23, 2023

The Honorable Senator Aaron Woods, Co-Chair  
The Honorable Representative David Gomberg, Co-Chair  
Joint Committee on Ways and Means  
Subcommittee On Transportation and Economic Development  
900 Court Street, NE, H-170  
Salem, OR 97301



Dear Co-Chairs:

Thank you for listening to our presentation from the Oregon Employment Department (OED) to your Subcommittee earlier this week. We appreciated your insightful questions and comments. This letter serves to respond to the questions we were unable to answer during the agency presentation.

**1. How does the system protect against seasonal workers counting on not working for several months while they receive Unemployment Insurance (UI) benefits? How do we ensure that the seasonal workers are not taking advantage of UI benefits or that tax paying employers are not subsidizing regular, seasonal periods of unemployment?**

All claimants receiving UI benefits must also meet weekly eligibility requirements – essentially, that they are looking for work, they are able to do the work they are seeking, and they are available to accept work when it's offered. There are a few exceptions, such as being a member of a closed union or being considered '**temporarily unemployed**'. Unemployed workers are considered **temporarily unemployed** only if they meet **all** of following conditions:

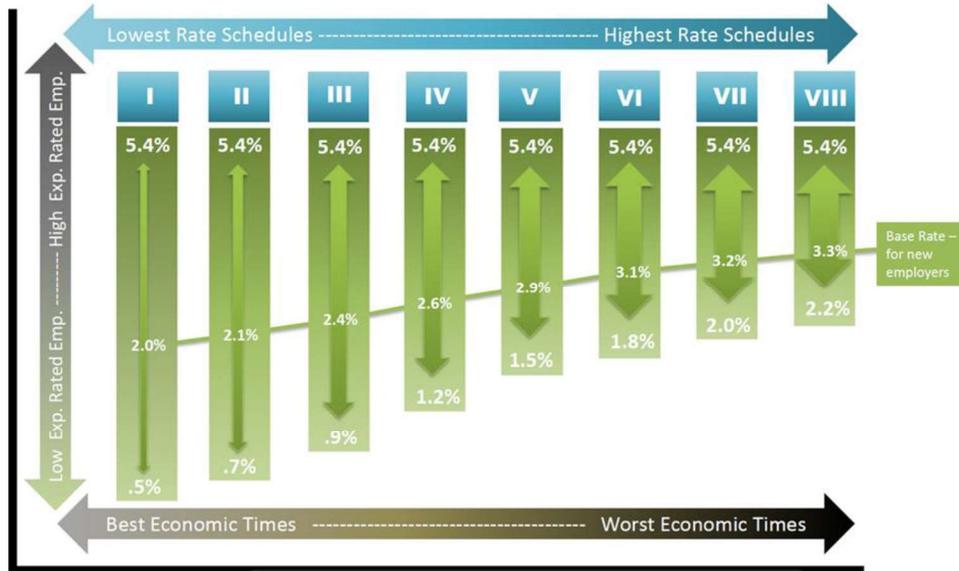
- They have been laid off or had their hours reduced, and they expect to return to work with their employer.
- They are returning to full-time work or work that pays more than their UI weekly benefit amount.
- There will not be more than four weeks between the week the worker became temporarily unemployed and the week they return to work.

Further, the UI tax system is in alignment with federal requirements. As such, it has built-in disincentives for employers who engage in large-volume, seasonal layoffs. In short, employers who lay off significant numbers of workers will pay higher payroll taxes due to the change in their “experience ratings.”

All UI tax paying employers are assigned an experience rating based on their contributions to benefit ratios, i.e., how many of their workers receive UI benefits. Businesses with the highest benefit ratios pay the highest tax rates.



Businesses with the lowest benefit ratios pay the lowest tax rates according to their experience rating. This year, Oregon is on Tax Schedule II. The highest possible tax rate is 5.4%, and the lowest is 0.7% on taxable wages on the first \$50,900 wages earned.



## 2. What is the impact of SB 172 on OED’s overpayments and delinquent debt? How much has been waived or written-off; and where does it show up in the report to the Legislature?

Senate Bill 172 (2021) was signed into law on July 7, 2021, with an operative date of June 23, 2021. The bill allows the department to deduct all or part of unemployment insurance benefit overpayments against future weekly benefits within five years following the date the overpayment decision becomes final. This is only for overpayments that were not attributable to the claimant and for overpayments that were attributable to the claimant, but not because of willful misrepresentation.

These changes are reflected under the ‘Adjustments’ category of the Report on Liquidated and Delinquent Accounts Receivable published by the Legislative Fiscal Office. However, the data for the 2021 report was pulled on July 1, 2021, which was prior to Governor Brown signing SB 172 into law, so those changes are not reflected in the 2021 report due to timing. During the second half of 2021 and into 2022, we worked to implement the provisions of the bill which included canceling the balances that were not attributed to fraud and were more than five years old, updating our internal processes for reviewing waiver applications, the cancellation of the debt instead of deferring for six months, streamlining the waiver application form, rulemaking, and outreach to claimants who were potentially eligible for a waiver to let them know about the changes.

Also of note is that, during the pandemic, we stopped most collection activities because we felt it was against equity and good conscious to collect during the crisis (we did continue to take voluntary payments). Instead, we had our employees focused on getting benefits to claimants and



answering claimant questions. We didn't resume most active collections for benefit overpayments until mid-August 2021, which means the new waiver provisions wouldn't be applied until that time.

The 2022 Report on Liquidated and Delinquent Accounts Receivable (which does have benefits, tax, and administrative accounts receivable grouped together) should reflect that our adjustments increased due in significant part to SB 172, with the 2021 report reflecting about \$20M, and the 2022 report showing about \$54.6M.

### **3. What is the frequency of sending out customer service surveys used for the Key Performance Measure (KPM) #14 relating to Foundational Survey responses?**

Last month, the Oregon Employment Department sent the customer satisfaction survey to approximately 13,000 customer contacts. The monthly response rate for the Customer Satisfaction Survey is roughly 10%, although the response rate varies slightly with each monthly survey cycle.

#### **Definitions & Methods:**

Every month, participating programs provide a contact list of **all customers** who were served during the previous calendar month. The Employment Department contacts these customers by email and invites them to complete the survey using a web-based survey platform. Policy analysts match the survey responses with other customer information contained in the contact lists. The resulting data is the basis for the customer satisfaction performance measures.

The key indicator of customer satisfaction performance for both individuals and businesses is Overall Quality, measured as the percentage of survey respondents who rated the quality of services they received as excellent or good. Another important measure of customer satisfaction is "Likely to Recommend," which is the percentage of survey respondents who said they would be very likely or somewhat likely to recommend the services they received to others.

Customer Satisfaction Survey Questions:

#### **Individuals:**

- How do you rate your first impression of the workforce system provider that served you?
- Do you feel the services provided helped (or will help) you find a job?
- If one of your best friends were looking for a job in the future, how likely would you be to recommend our services?



## **Businesses:**

- As a result of the services you received, did you hire one or more new employee(s)?
- How satisfied were you with the person(s) you hired?
- If you have job openings in the future, how likely is it that you would list your job openings with us?
- How likely would you be to recommend our services to your fellow business owners?

## **Individuals and Businesses:**

- How do you rate the timeliness of the services provided by Oregon's workforce system?
- How do you rate our ability to provide services correctly the first time?
- How do you rate the helpfulness of staff?
- How do you rate the knowledge and expertise of staff?
- How do you rate the availability of information?
- How do you rate the overall quality of the services provided?

## **4. Does the “Grow with Google” program include a cybersecurity certificate?**

The Grow with Google program doesn't include a cybersecurity certificate, but the LinkedIn program we also collaborate with does. Our [WorkSource Oregon LinkedIn page](#) has more than 13,000 followers who see our resources, recruitments opportunities, events and more, including LinkedIn Learning. LinkedIn Learning provides classes for individuals interested in entering a career in [Cybersecurity](#).

People who have LinkedIn Premium licenses have access to the LinkedIn learning. The licenses cost \$29.99 a month. Veterans can get license for one year through LinkedIn. SNAP Employment and Training Program (STEP) and Trade Adjustment Assistance customers can get six-month vouchers through those programs.

The LinkedIn partnership with the Employment Department started in July 2020 as another tool in our toolbox with the purpose of connecting Oregon's employers with top talent, providing skills and certifications to job seekers, and to drive brand awareness to WorkSource Oregon resources. The goals of the partnership are to:

- Establish WorkSource Oregon as an industry and career partner of choice
- Support industry and businesses through relevant content
- Promote employment and career opportunities

Our partnership with LinkedIn has allowed us to increase our presence on social media to promote employment and career opportunities to Oregonians.

We have 13-recruiter licenses that allow us to post listings and source candidates throughout Oregon and across the US, bringing talent into our labor exchange system. We have assisted many job seekers with finding employment from \$18.00 dollars per hour up to \$180,000 dollars per year. Likewise, we have assisted many employers with finding needed talent to fill their labor needs.



Through different LinkedIn campaigns, we have reached more than 300,000 business owners and more than 2 million individuals branding WorkSource Oregon Services. We average about 400,000 impressions in 30 days when we share or post information about programs or services.

## 5. Does OED have demographic data on the individuals calling about Paid Leave benefits?

OED does not gather demographic data from those emailing and calling Paid Leave Oregon. However, we do currently collect some areas of demographics, and we will have more robust data collection on claimants after the benefits program is operational in September 2023.

The Paid Leave Oregon outreach and engagement team has reached nearly 19,000 employers and workers in Oregon since June of 2022 through virtual and in-person presentations, door-to-door outreach, and tabling events. We have collected known demographic data for 40% of the 19,000 individuals. Data indicates that 60% of the 40% of employers and workers fall within our priority populations.

Paid Leave Oregon outreach and engagement priority populations include:

- Black, indigenous, and people of color (BIPOC)
- Culturally specific and culturally responsive service providers
- Immigrants and refugees
- Women
- LGBTQIA2S+
- Farm and agricultural workers
- Low income and under-resourced individuals
- Sex workers and people in the adult entertainment industry
- Rural communities
- Individuals involved in and impacted by the justice system
- People experiencing or at risk of being unhoused
- Survivors of sexual assault, domestic violence; harassment; and stalking
- Seniors and elder care providers
- People with disabilities
- People experiencing mental illness or addiction
- Veterans

While not an exhaustive list, we've connected with culturally specific service providers and associations such as: the Micronesian Islander Community, PCUN, Centro de Servicios Para Campesinos, Oregon Association of Minority Entrepreneurs, Consejo Hispano, Black Joy Oregon, Unite Oregon, and The Urban League of Portland. Additionally, our labor union and worker advocacy outreach and engagement has focused on affinity groups, such as Jobs with Justice and Oregon Tradeswomen.

**Tribal Government Engagement:** Paid Leave issued *Dear Tribal Leader* letters to all nine federally recognized tribes in Oregon. In addition to one-on-one consultation with a few tribes



and a presentation for the Confederated Tribes of the Siletz Indians tribal council, Paid Leave presented during the February Economic and Development Tribal Cluster meeting.

**Non-competitive Procurements:** Paid Leave is currently engaged in procurement with culturally specific organizations with a focus on BIPOC service organizations that include farm and agricultural advocacy organizations

Paid Leave Oregon has an intentional media campaign directed at priority populations including BIPOC communities. Our website data reflects what languages people have their device settings set to, so we can track what language defaults.

<u>Language</u>	<u>Total Users</u>	<u>New users</u>
English	125,416	115,206
Spanish	6,421	6,262
Chinese	80	78
Korean	32	31
Vietnamese	28	28

Paid Leave Oregon employer videos have been watched to completion in high numbers of both English and Spanish since January 1, 2023.

- 353,000 completed videos in English
- 290,000 completed videos in Spanish

Demography for Benefits go live will include the following fields:

- Preferred Language
- Reasonable Accommodations
- Gender
- Gender Identity
- Education Level
- Ethnicity
- Race
- Disability Status
- Veteran Status
- Sexual Orientation

Additionally, in ORS 657B.420 (Note Sec. 51) the Oregon Employment Department's Paid Leave Oregon program is required to submit a report to the legislature on July 1, 2024, and once during each of the following three consecutive biennia. This report must include:

- Total number of claims



- Number of claims allowed/denied
- Total dollars in benefits paid
- Solvency of fund
- Amount of contributions collected
- Number of equivalent plans approved
- Cost of approving equivalent plans
- Number of assistance grant applications
- Dollars awarded for assistance grants
- Any recommendations made by the advisory committee

## 6. What are the salary ranges for the jobs we are filling for in the Paid Leave Oregon program?

The salary ranges for the jobs we are filling from March-July 2023 can be seen below. Paid Leave Oregon is hiring these staff positions during this time frame in order to give them time to onboard and train by our go-live date of September 2023.

Classification	Monthly Salary Range
Compliance Specialist 1	\$3,546 - \$5,396
Compliance Specialist 2	\$4, 555 - \$6, 982
Employment Adjudicator	\$4, 155 - \$6, 350
Investigator 2	\$4, 155 – \$6, 350
Investigator 3	\$4, 776 - \$7, 327

Please let us know if you have any additional questions. Thank you for your time and consideration.

Sincerely,

*David Gerstenfeld*

David Gerstenfeld  
Acting Director, Oregon Employment Department

cc: Michelle Deister, Legislative Fiscal Office Analyst, Legislative Fiscal Office  
Tamara Brickman, Budget and Policy Analyst, DAS Chief Financial Office



# Oregon

Tina Kotek, Governor

## Oregon Office of Administrative Hearings

Administrative Offices  
4600 25th Ave. NE, Suite 140  
Salem, OR 97301  
Ph. 503-947-1515  
Fax: 503-947-1531

February 23, 2023

### RE: Follow-Up From February 22, 2023 Joint Subcommittee Presentation

Co-Chairs Gomberg, Woods & Members of the Joint Subcommittee on Transportation & Economic Development:

Thank you for an engaging discussion during our budget presentation. Following, please find responses to the outstanding questions from committee members. Please don't hesitate to reach out to me with any additional questions or concerns.

- **OLCC Contested Cases Related to Pandemic Restrictions:** Currently, the OAH has 16 open OLCC cases. Of the 16, 3 were referred in February 2022 and are still in the process of being scheduled for pre-hearing conference. All of the remaining cases are either scheduled for prehearing conferences or hearings. Among these 16 cases, one is related to pandemic restrictions.

This OLCC case was referred to the OAH on January 12, 2022. The hearing was rescheduled twice by request of the parties. The OLCC's notice originally contained allegations about mask mandate violations. OLCC later amended the notice to include other alleged violations. As a result of the amended notice, the licensee and agency agreed that the matter should be set over because the additional issues were legally significant. OLCC then issued a second amended notice. Due to issues with discovery, the matter was again rescheduled at the request of the licensee and the agency did not object. The matter is now set to convene May 16-18, 2023.

- **Current Rates as Compared to July 1, 2023 Anticipated Rate Increases:** Below is a table showing a comparison of our current rate structure side-by-side with our anticipated rate increases for the 2023-25 biennium:

Position Classification	2021-2023 Rates	2023-2025 Rates
ALJ 1	\$204	\$244
ALJ 2	\$182	\$202
ALJ 3	\$155	\$175
Support Staff Services	\$80	\$110



# Oregon

Tina Kotek, Governor

## Oregon Office of Administrative Hearings

Administrative Offices  
4600 25th Ave. NE, Suite 140  
Salem, OR 97301  
Ph. 503-947-1515  
Fax: 503-947-1531

By way of reminder, rates are statutorily set by the Chief ALJ for the express purpose of recouping the cost to provide services and, thus, are considered “budget neutral.” See ORS 183.655.

The rates established for the OAH are based on the 2021-23 Legislatively Adopted Budget for service and supplies costs, inflated consistent with historical rates used by DAS, and include projections for 2023-25 personal services costs. All rates include associated administrative costs from the OAH, and shared administrative costs allocated from the Employment Department. Additional charges for agency specific training, travel, transcription, and translation costs are directly billed to the OAH at actual cost. As KPM #10 indicates, the OAH continues to provide relatively low-cost services when benchmarked against KPM targets.

- **KPM #8 Non-Unemployment Insurance Appeals Timeliness:** As we discussed during the hearing, it is certainly the case that factors outside of the central panel’s control, such as requests from the parties for delay or extensive motion practice, have a negative impact on our KPM. There are other contributing factors as well. In some programs within the OAH, such as DHS/OHA, referrals may be received by the OAH after the statutory or rule-based deadlines, meaning it is impossible for the OAH to meet those deadlines. Regardless, this would still be reflected in our KPMs.

With respect to the questions specific to our Unemployment Insurance Program, please see the attached memorandum. I look forward to continued dialog with the Subcommittee.

Respectfully,

**Jeffrey R. Rhoades**

Chief Administrative Law Judge  
Office of Administrative Hearings

*Attachments: Memo from Presiding ALJ John Lohuis*

To: Jeff Rhoades, Chief ALJ  
From: John Lohuis, Presiding ALJ, UI  
Date: February 23, 2023  
Re: Legislative Inquiries, February 2023

---

**1. What percentage of UI appeals are ruled in favor of the person seeking benefits?**

- a. 2018: 38.70% in favor of claimant.
- b. 2019: 42.55% in favor of claimant.
- c. 2020: 40.8% in favor of claimant.
- d. 2021: 40.38% in favor of claimant.
- e. 2022: 33.06% in favor of claimant.

**2. How does OAH determine which UI cases to schedule, and does the OAH take into consideration the needs of the parties, exigent circumstances, or other factors?**

- a. As soon as OAH began to receive its huge influx of pandemic-related UI cases in December 2020, we prioritized scheduling UI benefits cases over UI relief of charges cases (cases in which the employer seeks to be relieved of unemployment insurance taxes), so that we are providing UI claimants with hearings as quickly and efficiently as possible. We have continued to prioritize UI benefits cases over relief of charges cases and will continue to do so until the pandemic backlog of cases is cleared.
- b. OAH would not know about any exigent circumstances of the parties unless the party contacts OAH and notifies OAH of their circumstances. If a party, a party's representative, OED, or other advocate requests that a hearing is scheduled on a priority basis, OAH will accommodate the scheduling request to the extent possible.
- c. With as many cases as possible, OAH schedules hearings so that the timeliness targets achieved and customers receive their hearings in a timely fashion. A UI appellant who files a request for hearing today will typically have a delay of only six to eight weeks before their hearing. At the same time, OAH schedules the older cases in the backlog as quickly as possible.

**3. OAH KPM #7 measures the UI appeals timeliness, with a target of 60% of cases are disposed within 30 days of the appeal date.<sup>1</sup> 60% seems low. Why is that standard so low? Should OAH be disposing of cases quicker?**

---

<sup>1</sup> KPM #7 is UI appeals timeliness, the percentage of UI appeals decided within 30 days of the appeal date. KPM #8 is non-UI percentage of cases disposed of within the standards established by the user agencies.

- a. OAH KPM #7 mirrors the United States Department of Labor Acceptable Level of Performance found at [https://oui.doleta.gov/unemploy/pdf/Core\\_Measures.pdf](https://oui.doleta.gov/unemploy/pdf/Core_Measures.pdf), derived from 20 CFR § 650.4. Oregon, like all other states, is required to decide unemployment insurance appeals with the greatest promptness that is administratively feasible, which depends on the facts and circumstances of that case.
- b. The target of 60% of UI cases disposed of within 30 days of the appeal date acknowledges that certain cases will take longer to resolve, for example, cases involving complex issues of fact or law, reasonable requests by parties for continuances or rescheduling of hearings or other unforeseen and uncontrollable factors.
- c. Prior to the COVID-19 pandemic, OAH consistently exceeded the 60% target:
  - i. In fiscal year 2015-16, OAH disposed of 71.55% within 30 days of the appeal date.
  - ii. In fiscal year 2016-17, OAH disposed of 78.73% within 30 days of the appeal date.
  - iii. In fiscal year 2017-18, OAH disposed of 61.11% within 30 days of the appeal date.
  - iv. In fiscal year 2018-19, OAH disposed of 82.58% within 30 days of the appeal date.
  - v. In fiscal year 2020-21, OAH disposed of 51.48% within 30 days of the appeal date.
  - vi. In fiscal year 2021-22, OAH disposed of 27.26% within 30 days of the appeal date.
- d. UI appellants file their requests for hearing with OED. OED reviews the request for hearing and forwards it to OAH. In pre-pandemic times, OED usually provided the request for hearing to OAH within approximately 2 days. However, with the dramatic increase in UI appeals following the pandemic, OAH commonly received these requests for hearing much later, often after the due date had already passed or without adequate time to schedule, hold, and issue the order, causing OAH to miss its target date.
- e. Although OAH strives to schedule all hearings as promptly as possible, several factors can cause a case to be untimely:
  - i. OAH complies with requests for accommodations under the Americans With Disabilities Act (ADA). These requests include scheduling hearings with certified or qualified interpreters, which can take additional time to locate, contract with

the vendors for services if needed, and schedule according to the availability of all the parties and interpreter.

- ii. A party seeking to postpone their hearing will commonly cause the case to be disposed of after the 30-day deadline.
- iii. Some cases are continued to another hearing date, causing the case to be disposed of after the 30-day deadline. Examples of circumstances requiring a continuance could include the limited availability of a party or witness, a complex fact pattern that requires additional hearing time, and additional time to ensure that the parties have exchanged all proposed exhibits.
- iv. A case that is remanded back to OAH for further hearing and additional development of the evidentiary record will be disposed of after the 30-day deadline.