

## EMPLOYMENT APPEALS BOARD DECISION

2015-EAB-0005

*Affirmed*  
*Late Request for Hearing Dismissed*  
*Overpayment and Penalties*

**PROCEDURAL HISTORY:** On September 23, 2014, the Oregon Employment Department (the Department) served notice of two administrative decisions; decision # 131840 concluded claimant was not able to work for the period of June 15 through August 16, 2014 (weeks 25-14 through 33-14), and decision # 133420 concluded claimant was not available for work from June 8 through June 14, 2014 (week 24-13). On October 7, 2014, the Department served notice of an administrative decision (decision # 200752) concluding claimant willfully made a misrepresentation to obtain benefits, and assessing a \$1,491 overpayment, \$447.30 in monetary penalties and 12 penalty weeks based on decisions # 131840 and # 133420. On October 14, 2014, administrative decisions # 131840 and # 133420 became final without requests for hearing having been filed. On October 27, 2014 decision # 200752 became final without a request for hearing having been filed. On November 15, 2014, claimant filed a late request for hearing on the overpayment decision # 200752.<sup>1</sup>

On November 19, 2014, ALJ Kangas issued Hearing Decision 14-UI-28996, dismissing claimant's request for hearing as untimely, subject to claimant's "right to renew" the request by submitting responses to the "Appellant Questionnaire" attached to the hearing decision within 14 days of the date the decision was mailed.<sup>2</sup> On November 24, 2014, the Office of Administrative Hearings (OAH) received claimant's response. On December 15, 2014, OAH issued a "Cancellation of Hearing Decision" for Hearing Decision 14-UI-28996. On December 24, 2014, ALJ Clink conducted a hearing and issued Hearing Decision 14-UI-30956, re-dismissing claimant's late request for hearing. On January 9, 2015, claimant filed an application for review with the Employment Appeals Board (EAB).

<sup>1</sup> Claimant did not file late requests for hearing on the underlying decisions (# 131840 and # 133420) which created the overpayment decision. Those decisions remain undisturbed at this time, and are not affected by the proceedings in Hearing Decision 14-UI-30956 or in this EAB decision, 2015-EAB-0005.

<sup>2</sup> Hearing Decision 14-UI-28996.

EAB reviewed the entire hearing record. On *de novo* review and pursuant to ORS 657.275(2), the hearing decision under review is **adopted**.

**DECISION:** Hearing Decision 14-UI-30956 is affirmed.

Tony Corcoran and J. S. Cromwell;  
Susan Rossiter, not participating.

**DATE of Service:** January 15, 2015

**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 listed above. See ORS 657.282. For forms and information, you may write to the Oregon Court of Appeals, Records Section, 1163 State Street, Salem, Oregon 97310 or visit the website at [court.oregon.gov](http://court.oregon.gov). Once on the website, click on the blue tab for “Materials and Resources.” On the next screen, click on the tab that reads “Appellate Case Info.” On the next screen, select “Appellate Court Forms” from the left panel. On the next page, select the forms and instructions for the type of Petition for Judicial Review that you want to file.

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