

**EMPLOYMENT APPEALS BOARD DECISION**  
**2017-EAB-0529**

*Late Application for Review Dismissed*

**PROCEDURAL HISTORY:** On January 25, 2017, the Oregon Employment Department (the Department) served notice of administrative decision # 121337, concluding that claimant filed late claims for benefits for the weeks from November 27 through December 10, 2016 (weeks 48-16 and 49-16). Claimant filed a timely request for hearing. On April 14, 2017, ALJ Frank conducted a hearing and issued Hearing Decision 17-UI-81094, affirming the Department's decision. On May 4, 2017, Hearing Decision 17-UI-81094 became final without claimant having filed a timely application for review with the Employment Appeals Board (EAB). On May 5, 2017, claimant filed a late application for review of Hearing Decision 17-UI-81094.

**CONCLUSIONS AND REASONS:** Claimant failed to establish good cause for filing a late application for review of Hearing Decision 17-UI-81094, and his application for review therefore is dismissed.

An application for review is timely if it is filed within 20 days of the date that OAH mailed the decision for which review is sought. OAR 471-041-0070(1) (March 20, 2014). The 20 day filing period may be extended a "reasonable time" upon a showing of "good cause." OAR 471-041-0070(2). "Good cause" means that factors or circumstances beyond the applicant's reasonable control prevented timely filing OAR 471-040-0070(2)(a). A "reasonable time" is seven days after the circumstances that prevented the timely filing ceased to exist. OAR 471-041-0050(2)(b).

ORS 657.270(6) required claimant's application for review to be filed no later than May 4, 2017. It was filed on May 5, 2017, and therefore was one day late. In written argument, claimant explained:

After reviewing the 20 day deadline to appeal a decision, I want to inform the office that my mother-in-law has been and is still in Riverbend Hospital being treated for a newly diagnosed health condition-Crohn's Disease for the past 10 days. Therefore, my wife and I have been overwhelmingly putting our energy towards being with her as this time has been stressful and hard for the entire family.

However, OAH mailed Hearing Decision 17-UI-81094 to claimant on April 14, 2017, and we infer that claimant's mother-in-law was not hospitalized until April 25, 2017 (10 days before claimant filed his application for review). Claimant therefore knew or should have known prior to his mother-in-law's hospitalization that he was required to file his application for review of Hearing Decision 17-UI-81094 by May 4, 2017. Although claimant's mother-in-law's ongoing hospitalization was a factor or circumstance beyond his reasonable control, it did not prevent him from filing his application for review on May 5, 2017, and claimant failed to show that it prevented him from doing so at least one day earlier. Absent such a showing, claimant failed to establish good cause for filing a late application for review of Hearing Decision 17-UI-81094, and his application for review therefore is dismissed.

**DECISION:** The application for review filed May 5, 2017 is dismissed. Hearing Decision 17-UI-81094 remains undisturbed.

Susan Rossiter and D. P. Hettle;  
J. S. Cromwell, not participating.

**DATE of Service:** May 9, 2017

**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 Court of Appeals website at [courts.oregon.gov](http://courts.oregon.gov). Once on the website, use the 'search' function to search for 'petition for judicial review employment appeals board'. A link to the forms and information will be among the search results.

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