

**EMPLOYMENT APPEALS BOARD DECISION**  
**2021-EAB-1072-R**

*Request for Reconsideration Allowed*  
*EAB Decision 2021-EAB-1072 Adhered to on Reconsideration*  
*Late Application for Review Dismissed*

**PROCEDURAL HISTORY AND FINDINGS OF FACT:** On July 6, 2021, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant failed to register for work in accordance with the Department's rules and therefore was denied unemployment insurance benefits for the week of June 13, 2021 through June 19, 2021 (week 24-21) and until the reason for the denial had ended. Claimant filed a timely request for hearing. On August 17, 2021, ALJ Murdock conducted a hearing, and on August 18, 2021 issued Order No. 21-UI-172850, modifying the July 6, 2021 administrative decision by concluding that claimant failed to register for work in accordance with the Department's rules and was therefore ineligible for benefits for the weeks including June 13, 2021 through July 17, 2021 (weeks 24-21 through 28-21). On September 7, 2021, Order No. 21-UI-172850 became final without claimant having filed an application for review with the Employment Appeals Board (EAB). On December 15, 2021, claimant filed a late application for review of Order No. 21-UI-172850 with EAB. On January 18, 2022, EAB issued EAB Decision 2021-EAB-1072, dismissing claimant's late application for review without prejudice. On January 18, 2022, claimant filed a timely request for reconsideration of EAB Decision 2021-EAB-1072. This decision is issued pursuant to EAB's authority under ORS 657.290(3).

**CONCLUSIONS AND REASONS:** Claimant's request for reconsideration of EAB Decision 2021-EAB-1072 is allowed. EAB Decision 2021-EAB-1072 is adhered to on reconsideration.

ORS 657.290(3) authorizes the Employment Appeals Board (EAB) to reconsider any previous decision of EAB, including "the making of a new decision to the extent necessary and appropriate for the correction of previous error of fact or law." "Any party may request reconsideration to correct an error of material fact or law, or to explain any unexplained inconsistency with Employment Department rule, or officially stated Employment Department position, or prior Employment Department practice." OAR 471-041-0145(1) (May 13, 2019). The request is subject to dismissal unless it includes a statement that a copy was provided to the other parties, and is filed on or before the 20th day after the decision sought to be reconsidered was mailed. OAR 471-041-0145(2).

An application for review is timely if it is filed within 20 days of the date that the Office of Administrative Hearings (OAH) mailed the order for which review is sought. ORS 657.270(6); OAR 471-041-0070(1) (May 13, 2019). The 20-day filing period may be extended a “reasonable time” upon a showing of “good cause.” ORS 657.875; OAR 471-041-0070(2). “Good cause” means that factors or circumstances beyond the applicant’s reasonable control prevented timely filing. OAR 471-041-0070(2)(a). A “reasonable time” is seven days after the circumstances that prevented the timely filing ceased to exist. OAR 471-041-0070(2)(b). A late application for review will be dismissed unless it includes a written statement describing the circumstances that prevented a timely filing. OAR 471-041-0070(3).

EAB dismissed claimant’s late application for review without prejudice and subject to claimant filing a timely request for reconsideration within 20 days after EAB’s dismissal decision was issued. Claimant filed a request for reconsideration consistent with the requirements set forth in OAR 471-041-0145. Therefore, the request for reconsideration is allowed.

However, EAB Decision 2021-EAB-1072, which dismissed claimant’s late application for review without prejudice, is adhered to on reconsideration because claimant did not provide sufficient information in their reconsideration request to establish that they had good cause to file the late application for review. In a statement submitted with their request on January 18, 2022, claimant stated that their application for review was not submitted by the September 7, 2021 deadline because they were “waiting for the decision that was supposed to be mailed . . . but it never showed up.” Request for Reconsideration at 1. It appears from that statement that claimant never received their original copy of Order No. 21-UI-172850, and only became aware of it sometime later, after the order became final. If claimant did not receive a copy of the order under review until after it became final, claimant may have failed to file a timely application for review due to circumstances beyond their reasonable control. However, in their request for reconsideration, claimant also stated, “I recently called and was told that I can still appeal if I provide the reason I didn’t submit an application before the deadline.” Request for Reconsideration at 2. Claimant did not specifically state the date on which that conversation occurred, or the date on which the circumstances that prevented them from filing a timely application for review ceased to exist and, therefore failed to establish whether they filed their application for review within seven days of that date as requested in EAB Decision 2021-EAB-1072. EAB Decision 2021-EAB-1072 at 2. Accordingly, claimant did not establish whether they filed their late application for review within a “reasonable time” or seven days of the date on which the circumstances that prevented the timely filing ceased to exist. For that reason, claimant did not show good cause for extending the filing deadline for their late application for review. Claimant’s late application for review is dismissed

**DECISION:** Claimant’s request for reconsideration is allowed. On reconsideration, EAB Decision 2021-EAB-1072 is adhered to as clarified herein.

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

**DATE of Service:** February 25, 2022

**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](https://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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# 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 ໄດ້ ໂດຍປະຕິບັດຕາມຄໍາແນະນໍາທີ່ບອກໄວ້ຢູ່ຕອນຫ້າຍຂອງຄໍາຕັດສິນນີ້.

**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.

**Employment Appeals Board - 875 Union Street NE | Salem, OR 97311**  
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[www.Oregon.gov/Employ/eab](http://www.Oregon.gov/Employ/eab)

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