

**EMPLOYMENT APPEALS BOARD DECISION**  
**2021-EAB-1079**

*Late Application for Review Allowed*  
*Order No. 21-UI-173002 Affirmed ~ Benefits Allowed in Part, Denied in Part*

**PROCEDURAL HISTORY:** On July 19, 2021, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant had failed to register for work in accordance with the Department's rules and therefore was denied unemployment insurance benefits for the week of June 27, 2021 through July 3, 2021 (week 26-21) and until the reason for the denial ended. Claimant filed a timely request for hearing. On August 18, 2021, ALJ Murdock conducted a hearing, and on August 19, 2021 issued Order No. 21-UI-173002, modifying the July 19, 2021 administrative decision by concluding that claimant was entitled to benefits for week 26-21, but failed to register for work in accordance with the Department's rules and therefore was not entitled to benefits for the weeks from July 4, 2021 through July 17, 2021 (weeks 27-21 through 28-21). On September 8, 2021, Order No. 21-UI-173002 became final without claimant having filed an application for review with the Employment Appeals Board (EAB). On September 20, 2021, claimant filed a late application for review of Order No. 21-UI-173002 with EAB.

**EVIDENTIARY MATTER:** EAB has considered additional evidence when reaching this decision under OAR 471-041-0090(1) (May 13, 2019). The additional evidence consists of the copy of the order under review that was mailed to claimant but returned as undeliverable, and an email from claimant to the Office of Administrative Hearings (OAH) dated September 13, 2021. The additional evidence has been marked as EAB Exhibit 1, and a copy provided to the parties with this decision. Any party that objects to our admitting EAB Exhibit 1 must submit such objection to this office in writing, setting forth the basis of the objection in writing, within ten days of our mailing this decision. OAR 471-041-0090(2). Unless such objection is received and sustained, the exhibit(s) will remain in the record.

**LATE APPLICATION FOR REVIEW:** The first issue to be addressed is whether claimant's late application for review of Order No. 21-UI-173002 should be allowed.

An application for review is timely if it is filed within 20 days of the date that 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).

The application for review of Order No. 21-UI-173002, mailed to claimant on August 19, 2021, was due by September 8, 2021. Because claimant did not file his application for review until September 20, 2021, the application for review was late. On August 25, 2021, however, the United States Postal Service (USPS) returned as undeliverable the copy of Order No. 21-UI-173002 that had been mailed to claimant. EAB Exhibit 1 at 13. On September 13, 2021, claimant contacted OAH via email to inform them that he had “not yet received a letter with the Judges [sic] decision in regards to the hearing, nor [had he] received any appeal information as of yet.” EAB Exhibit 1 at 14.

The record therefore shows that claimant did not receive Order No. 21-UI-173002 prior to the appeal deadline. And although the record does not explicitly show whether claimant ever received a copy of Order No. 21-UI-173002, it is reasonable to infer that if he did, he received it no earlier than September 13, 2021. Because claimant could not have reasonably known of the existence of the order under review prior to the timely appeal deadline, claimant’s failure to file the application for review by September 8, 2021 was the result of factors or circumstances beyond his control. Those factors ceased, at earliest, on September 13, 2021, and claimant filed the application for review on September 20, 2021, seven days later, and therefore within a reasonable time. Because claimant had good cause for filing the late application for review of Order No. 21-UI-173002, and because he filed it within a reasonable time, claimant’s late application for review of Order No. 21-UI-173002 is allowed.

**REVIEW OF ORDER NO. 21-UI-173002.** Claimant included a statement with his application for review in which he stated that he “just found out today that [he] never received written notice in the mail from unemployment for signing up for i match skills [sic] and [he had] a witness willing to testify to that fact.” Claimant’s Application for Review at 1. To the extent that claimant intended to request that EAB consider this information as additional evidence under OAR 471-041-0090(1), claimant has not shown that it constitutes “additional evidence,” because the information is already contained within the hearing record. As the order under review concluded, claimant did not receive the first two notices that the Department mailed to him on June 14, 2021 and June 24, 2021, respectively, but *did* receive a notice on July 7, 2021 that no benefits were paid to him for the week ending July 3, 2021 because he had failed to register for iMatchSkills. Order No. 21-UI-173002 at 2. That information was the factual basis for the subsequent conclusion that claimant *was* eligible to receive benefits for week 26-21. Further, because the record shows that claimant received notice of the requirement to register for iMatchSkills by July 7, 2021, the fact that he did not have notice of the requirement during previous weeks is not material to the determination that he was ineligible for benefits during weeks 27-21 and 28-21.

EAB reviewed the entire hearing record. On *de novo* review and pursuant to ORS 657.275(2), Order No. 21-UI-173002 is **adopted**.

**DECISION:** Claimant’s late application for review of Order No. 21-UI-173002 is allowed. Order No. 21-UI-173002 is affirmed.

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

**DATE of Service: December 23, 2021**

**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.

**Please help us improve our service by completing an online customer service survey.** To complete the survey, please go to <https://www.surveygizmo.com/s3/5552642/EAB-Customer-Service-Survey>. You can access the survey using a computer, tablet, or smartphone. If you are unable to complete the survey online and need a paper copy of the survey, please contact our office.



# 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 desisyong ito.

## 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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