

**EMPLOYMENT APPEALS BOARD DECISION**  
**2022-EAB-0880**

*Late Application for Review Allowed*  
*Order No. 22-UI-195564 Affirmed*

**PROCEDURAL HISTORY:** On May 26, 2021, the Oregon Employment Department (the Department) served Notice of Determination for Pandemic Unemployment Assistance (PUA) concluding that claimant was entitled to PUA benefits provided he meets all other eligibility requirements effective December 6, 2020. Claimant filed a timely request for hearing. On May 31, 2022, ALJ Scott conducted a hearing, and on June 7, 2022 issued Order No. 22-UI-195564, modifying the May 26, 2021 PUA determination. On June 27, 2022, Order No. 22-UI-195564 became final without claimant having filed an application for review with the Employment Appeals Board (EAB). On August 12, 2022, claimant filed a late application for review 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 is claimant's late application for review that has been marked as EAB Exhibit 1. Claimant's late application for review was submitted with a number of additional documents, which are not material to the determination of whether claimant's late application for review should be accepted and are not included as part of EAB Exhibit 1. Copies of EAB Exhibit 1 have been 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 will remain in the record.

**WRITTEN ARGUMENT:** Claimant submitted written arguments on August 12, 16, 17, 19, 21, 22, 23, 2022. Claimant also submitted written arguments on October 6, 7, 8, 10, 11, 12, 15, 2022. Claimant submitted multiple written arguments on August 21, October 8, and October 12, 2022. Some of the written arguments contained information that was not part of the hearing record, and did not show that factors or circumstances beyond claimant's reasonable control prevented him from offering the information during the hearing. Under ORS 657.275(2) and OAR 471-041-0090 (May 13, 2019), EAB considered only information received into evidence at the hearing when reaching this decision. EAB considered claimant's arguments to the extent they are based on the record.

Although claimant raises a number of different issues in his numerous written arguments, under Section 201(f) of the Continued Assistance Act claimant's claim cannot be backdated to March 15, 2020 as he requests because claimant's initial claim was not filed until after December 27, 2020.

**FINDING OF FACT:** (1) Order No. 22-UI-195564, mailed to claimant on June 7, 2022, stated, "You may appeal this decision by filing the attached form Application for Review with the Employment Appeals Board within 20 days of the date that this decision is mailed." Order No. 22-UI-195564, at 3. Order No. 22-UI-195564, also stated on its Certificate of Mailing, "Any appeal from this Order must be filed on or before June 27, 2022 to be timely."

(2) Claimant became ill before the May 31, 2022 hearing and was diagnosed with COVID-19 shortly thereafter. Claimant was hospitalized some time after the hearing for almost three weeks. Claimant was placed on a medical leave and was not due to be released from the leave until August 30, 2022. Claimant filed his late application for review on August 12, 2022 while he remained on medical leave.

**CONCLUSIONS AND REASONS:** Claimant's late application for review of Order No. 22-UI-195564 is allowed. Order No. 22-UI-195564 is affirmed.

**Late Application for Review.** The first issue before EAB is whether claimant's late application for review of Order No. 22-UI-195564 should be allowed. 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).

Claimant's application for review of Order No. 22-UI-195564 was due no later than June 27, 2022. Because claimant did not file his application for review until August 12, 2022, the application for review was late. Claimant's late application for review indicates claimant was diagnosed with COVID-19 before the May 31, 2022 hearing date. Claimant became very sick from COVID-19 and was hospitalized sometime after the hearing for nearly three weeks. Claimant's illness coincided with the timeframe to file a timely application for review. This was a circumstance beyond claimant's reasonable control. Further, because claimant filed his late application for review before he was released from his medical leave, the circumstances that prevented claimant from timely filing the application for review continued through the date that claimant filed his late application for review. EAB Exhibit 1. Claimant therefore filed the application for review within a reasonable time. Claimant's late application for review of Order No. 22-UI-195564 is allowed.

**PUA Determination.** Based on a *de novo* review of Order No. 22-UI-195564, and pursuant to ORS 657.275(2), Order No. 22-UI-195564 is adopted.

**DECISION:** Order No. 22-UI-195564 is affirmed.

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

**DATE of Service: October 19, 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 ໄດ້ໂດຍປະຕິບັດຕາມຄໍາແນະນໍາທີ່ບອກໄວ້ຢູ່ຕອນທ້າຍຂອງຄໍາຕັດສິນນີ້.

**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 الإستئناف 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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