

**EMPLOYMENT APPEALS BOARD DECISION**  
**2022-EAB-0894-R**

*Request for Reconsideration Allowed*  
*EAB Decision 2022-EAB-0894 Adhered to on Reconsideration*

**PROCEDURAL HISTORY:** On October 19, 2021, the Oregon Employment Department (the Department) served an Amended Notice of Determination for Pandemic Unemployment Assistance (PUA) concluding that claimant was not entitled to PUA benefits from August 16, 2020 through December 5, 2020. On November 8, 2021, the Amended PUA Determination became final without claimant having filed a timely request for hearing. On November 22, 2021 claimant filed a late request for hearing. ALJ Kangas considered claimant's request, and on November 30, 2021 issued Order No. 21-UI-180753, dismissing the request as late, subject to claimant's right to renew the request by responding to an appellant questionnaire by December 14, 2021. Claimant filed a response to the appellant questionnaire. On June 3, 2022, the Office of Administrative Hearings (OAH) served notice of a hearing scheduled for June 27, 2022 to determine whether claimant's late request for hearing should be allowed and, if so, the merits of the Amended PUA Determination. On June 27, 2022, ALJ Monroe conducted the hearing, and on July 25, 2022 issued Order No. 22-UI-198976, dismissing claimant's request for hearing as late without good cause, leaving the Amended PUA Determination undisturbed.

On August 15, 2022, claimant filed an application for review of Order No. 22-UI-198976 with the Employment Appeals Board (EAB). On September 8, 2022, EAB issued EAB Decision 2022-EAB-0894, affirming Order No. 22-UI-198976. Also on September 8, 2022, after EAB issued EAB Decision 2022-EAB-0894, claimant filed a timely written argument asking EAB to consider additional evidence, which EAB construed as a request for reconsideration of EAB Decision 2022-EAB-0894. This decision is issued pursuant to EAB's authority under ORS 657.290(3).

**CONCLUSIONS AND REASONS:** Claimant's request for reconsideration is allowed. On reconsideration, EAB Decision 2022-EAB-0894 is adhered to as clarified herein.

ORS 657.290(3) authorizes the Employment Appeals Board to reconsider any previous decision of the Employment Appeals Board, 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).

On September 8, 2022, claimant filed a timely written argument asking EAB to consider additional evidence, which EAB construed as a request for reconsideration of EAB Decision 2022-EAB-0894. EAB’s decision to issue EAB Decision 2022-EAB-0894 before the written argument due date was an error. Claimant’s request for reconsideration therefore is allowed.

However, claimant did not assert or show in her request for EAB to consider additional evidence that factors or circumstances beyond her reasonable control prevented her from offering the additional information into evidence at the June 27, 2022 hearing. Claimant’s request for EAB to consider her additional evidence therefore is denied under ORS 657.275(2) and OAR 471-041-0090 (May 13, 2019). The additional evidence therefore would not have been considered in reaching EAB Decision 2022-EAB-0894, and was not considered in reaching this decision. EAB’s error in issuing EAB Decision 2022-EAB-0894 before the written argument deadline therefore was not a material error, and claimant did not assert or show that there was any other unexplained inconsistency with Department rule, officially stated Department position, or Department practice. Nor did claimant assert or show that EAB Decision 2022-EAB-0894 itself contained an error of material fact or law. Absent such a showing, EAB Decision 2022-EAB-0894 is adhered to on reconsideration.

**DECISION:** Claimant’s request for reconsideration is allowed. On reconsideration, EAB Decision 2022-EAB-0894 is adhered to as clarified herein.

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

**DATE of Service: October 20, 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**  
 Phone: (503) 378-2077 | 1-800-734-6949 | Fax: (503) 378-2129 | TDD: 711  
[www.Oregon.gov/Employ/eab](http://www.Oregon.gov/Employ/eab)

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