

**EMPLOYMENT APPEALS BOARD DECISION**  
**2023-EAB-0678**

*Late Application for Review Dismissed*

**PROCEDURAL HISTORY AND FINDINGS OF FACT:** On May 21, 2021, the Oregon Employment Department (the Department) served a Notice of Determination for Pandemic Unemployment Assistance (PUA) concluding that claimant was ineligible for PUA benefits effective December 27, 2020. On June 10, 2021, the May 21, 2021 PUA determination became final without claimant having filed a request for hearing. On June 11, 2021, claimant filed a late request for hearing. ALJ Kangas considered claimant's request, and on September 29, 2021 issued Order No. 21-UI-175891, dismissing the request as late, subject to claimant's right to renew the request by responding to an appellant questionnaire by October 13, 2021. On October 5, 2021, claimant filed a timely response to the appellant questionnaire. On January 19, 2022, the Office of Administrative Hearings (OAH) mailed a letter to claimant stating that Order No. 21-UI-175891 was vacated and a hearing would be scheduled to determine whether claimant's late request for hearing on the May 21, 2021 PUA determination should be allowed and, if so, the merits of the PUA determination.

On January 4, 2023, the Office of Administrative Hearings (OAH) mailed claimant notice that the hearing was scheduled for January 17, 2023. On January 17, 2023, claimant failed to appear at the hearing, and on January 18, 2023 ALJ Scott issued Order No. 23-UI-212855, dismissing claimant's request for hearing on the May 21, 2021 PUA determination due to claimant's failure to appear. On January 25, 2023, claimant filed a timely request to reopen the January 17, 2023 hearing. On May 3, 2023, OAH mailed claimant notice that a hearing was scheduled for May 17, 2023 to determine whether to grant claimant's request to reopen the January 17, 2023 hearing; if so, whether to allow claimant's late request for hearing on the May 21, 2021 PUA determination should be allowed; and, if so, the merits of the PUA determination.

On May 17, 2023, ALJ Frank conducted a hearing, and on May 25, 2023 issued Order No. 23-UI-226083, denying claimant's request to reopen the January 17, 2023 hearing, and leaving Order No. 23-UI-212855 and the May 21, 2021 PUA determination undisturbed. On June 14, 2023, Order No. 23-UI-226083 became final without claimant having filed an application for review with the Employment Appeals Board (EAB). On June 15, 2023, claimant filed a late application for review of Order No. 23-UI-226083 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, and 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 will remain in the record.<sup>1</sup>

**CONCLUSIONS AND REASONS:** Claimant’s late application for review is dismissed.

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).

The application for review of Order No. 23-UI-226083 was due June 14, 2023. Claimant’s application for review was dated June 14, 2023, but per the date encoded on the document, was received by fax June 15, 2023. EAB Exhibit 1 at 1. OAR 471-041-0065(1)(d) (May 13, 2019) states that the filing date for a document submitted by fax is “the encoded date on the faxed document,” and therefore the date claimant filed her application for review was June 15, 2023.

Because claimant did not file her application for review until June 15, 2023, the application for review was late. Claimant provided a letter from her medical provider with the application for review. However, while the letter contained general info about the claimant’s mental health, it did not specifically address why claimant filed the application for review late, and therefore did not describe circumstances preventing claimant from filing the application for review on time, as required under OAR 471-041-0070(3).

Because claimant’s late application for review did not include a written statement describing circumstances that prevented claimant from filing the application for review on time, the late application for review is dismissed.

**DECISION:** The application for review filed June 15, 2023 is dismissed. Order No. 23-UI-226083 remains undisturbed.

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

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<sup>1</sup> The attachment to claimant’s late application for review was a June 9, 2023 letter from her medical provider that did not describe the circumstances that prevented claimant from filing the application for review on time, and therefore was not included in EAB Exhibit 1.

**DATE of Service: July 25, 2023**

**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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