

**EMPLOYMENT APPEALS BOARD DECISION**  
**2023-EAB-1022-R**

*Request for Reconsideration Allowed*  
*EAB Decision 2023-EAB-1022 Adhered to on Reconsideration*

**PROCEDURAL HISTORY:** On July 28, 2023, the Oregon Employment Department (the Department) served notice of an administrative decision denying claimant’s request to backdate his initial claim to June 25, 2023, and concluding that claimant therefore was not eligible for benefits for the week of June 25, 2023, through July 1, 2023 (week 26-23) (decision # 72245). Claimant filed a timely request for hearing. On August 22, 2023, ALJ Ramey conducted a hearing, and on August 30, 2023, issued Order No. 23-UI-234640, affirming decision # 72245. On September 7, 2023, claimant filed an application for review with the Employment Appeals Board (EAB). On October 13, 2023, EAB issued EAB Decision 2023-EAB-1022, affirming Order No. 23-UI-234640. On October 23, 2023, claimant filed a request for reconsideration of EAB Decision 2023-EAB-1022. This decision is issued pursuant to EAB’s authority under ORS 657.290(3).

**WRITTEN ARGUMENT:** In addition to the request for reconsideration and accompanying documents that claimant filed on October 23, 2023, claimant also filed a written argument on November 26, 2023. This argument contained substantially the same information and documents which were included with claimant’s October 23, 2023, request for reconsideration. However, claimant’s November 26, 2023, argument was not received by EAB within the time period allowed under OAR 471-041-0080(1) (May 13, 2019). As such, claimant’s November 26, 2023, argument was not considered by EAB when reaching this decision. OAR 471-041-0080(2)(b).

**CONCLUSIONS AND REASONS:** Claimant’s request for reconsideration is allowed. On reconsideration, EAB Decision 2023-EAB-1022 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). 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 20<sup>th</sup> day after the decision sought to be reconsidered was mailed. OAR 471-041-0145(2).

Claimant filed his request for reconsideration consistent with the requirements set forth in OAR 471-041-0145. The request for reconsideration therefore is allowed. In his request for reconsideration, claimant stated, “It seems the decision was based on the system’s inaccurate information that there’s no Oregon income in 2022. I am attaching the 2022 W2 showing 2022 Oregon state income tax withholding.” Claimant’s Request for Reconsideration at 1. Claimant attached a copy of a Form W-2 issued to him by a California employer, which purports to show that Oregon withheld income tax from that employer for tax year 2022. Claimant’s Request for Reconsideration at 3.

That Form W-2 does not appear in the hearing record, there is no indication that claimant attempted to offer it into the hearing record, and claimant has not included any explanation for why he did not offer it into the hearing record. As such, claimant has not shown that factors or circumstances beyond his reasonable control prevented him from offering the Form W-2 into the hearing record, and EAB has not considered the information it contains when reaching this decision. *See* ORS 657.275(2) and OAR 471-041-0090 (May 13, 2019).

Further, to the extent that claimant is asserting that the wages shown on the Form W-2 should have been allocated to Oregon, rather than California, that question is beyond the scope of appeal in this matter. If claimant wishes for the Department to review that wage information and determine whether the wages were allocated to the correct state, claimant may contact the Department directly.

For the above reasons, claimant’s request for reconsideration fails to establish that EAB Decision 2023-EAB-1022 contained an error of material fact or law. EAB Decision 2023-EAB-1022 therefore is adhered to on reconsideration.

**DECISION:** Claimant’s request for reconsideration is allowed. On reconsideration, EAB Decision 2023-EAB-1022 is adhered to as clarified herein.

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

**DATE of Service: December 1, 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**

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**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  
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