

**EMPLOYMENT APPEALS BOARD DECISION**  
**2023-EAB-1241**

*Late Application for Review Dismissed Without Prejudice*

**PROCEDURAL HISTORY:** On March 29, 2022, the Oregon Employment Department (the Department) served a Notice of Determination for Pandemic Unemployment Assistance (PUA) concluding that claimant was ineligible to receive PUA benefits for the weeks of March 15, 2020 through December 5, 2020 (weeks 12-20 through 49-20). On April 18, 2022, the March 29, 2022 PUA determination became final without claimant having filed a request for hearing. On April 19, 2022, claimant filed a late request for hearing. ALJ Kangas considered claimant's request, and on August 4, 2022 issued Order No. 22-UI-199836, dismissing claimant's request for hearing as late, subject to claimant's right to renew the request by responding to an appellant questionnaire by August 18, 2022. On August 24, 2022, Order No. 22-UI-199836 became final without claimant having filed a response to the appellant questionnaire or an application for review with the Employment Appeals Board (EAB). On November 8, 2023, claimant filed a late application for review of Order No. 22-UI-199836 with EAB.

**FINDINGS OF FACT:** (1) Order No. 22-UI-199836, mailed to claimant on August 24, 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-199836 at 2. Order No. 22-UI-199836 also stated on its Certificate of Mailing, "Any party may appeal this Order by filing a Request for Review with the Employment Appeals Board no later than August 24, 2022."

(2) On November 8, 2023, claimant filed an application for review of Order No. 22-UI-199836 with an accompanying written statement regarding late filing. On this statement, claimant asserted that they are autistic and had relied on their mother for assistance with their claim, but that they and their mother were ill and confused about a filing deadline. Claimant's Written Statement at 1. Additionally, claimant wrote that they were willing to submit information that had recently been requested by a Department investigator. Claimant's Written Statement at 1.

(3) Also on November 8, 2023, claimant filed with the Office of Administrative Hearings (OAH) a timely request for hearing on an unrelated October 19, 2023 PUA determination, and included a written statement containing the same assertions as the written statement included with claimant's application

for review of Order No. 22-UI-199836.<sup>1</sup> The Department investigator had provided a deadline for claimant to provide information, prior to the issuance of the October 19, 2023 PUA determination, which claimant apparently missed due to the circumstances set forth in the written statement.

**CONCLUSIONS AND REASONS:** The application for review is dismissed without prejudice.

On November 8, 2023, the appellant (claimant) filed an application for review of Order No. 22-UI-199836 with EAB. ORS 657.270(6) and ORS 657.270(7)(b) required the application for review to be filed no later than August 24, 2022. Claimant's application for review is therefore late.

The deadline for filing an application for review may be extended a reasonable time upon a showing of good cause. *See* ORS 657.875; OAR 471-041-0070 (May 13, 2019). Claimant provided a statement with their late application for review asserting that claimant is autistic and "rel[ies] on [their] mother" regarding their claim and appeal processes. Claimant's Written Statement at 1. Claimant further wrote that they and their mother "had been ill. . . and became confused of the date to file," adding that "a death occurred that made that time period very difficult." Claimant's Written Statement at 1. The statement also referenced claimant's willingness to submit information that a Department investigator had requested from them but did not receive prior to issuing the October 19, 2023 PUA determination. Claimant's Written Statement at 1. That these same assertions were also made in claimant's timely request for hearing on the October 19, 2023 PUA determination, and that the assertions seemed to refer to recent events surrounding that determination's issuance, suggests that claimant may not have intended to offer the statement as an explanation for the more than fourteen-month delay in filing an application for review of Order No. 22-UI-199836. These circumstances suggest the possibility that claimant did not intend to file a late application for review of Order No. 22-UI-199836 at all, and simply misfiled what claimant intended to be a request for hearing on the October 19, 2023 PUA determination.

Regardless of whether claimant intended to file the late application for review of Order No. 22-UI-199836, the written statement accompanying the application did not describe with sufficient detail what factors prevented the application from being filed by August 24, 2022, or during the approximately fourteen months that followed. Accordingly, claimant did not demonstrate good cause to extend the deadline for timely filing. Claimant's late application for review is therefore dismissed.<sup>2</sup>

However, if claimant intended to file the late application for review of Order No. 22-UI-199836, and believes they had good cause and filed their late application for review within a reasonable time, claimant may request that EAB reconsider this decision under OAR 471-041-0145 (May 13, 2019).

EAB will dismiss any request for reconsideration that does not include **all five** of the following:

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<sup>1</sup> EAB has taken notice of this fact which is contained in Employment Department records. OAR 471-041-0090(1) (May 13, 2019). Any party that objects to our taking notice of this information 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 noticed fact will remain in the record.

<sup>2</sup> The March 29, 2022 PUA determination at issue in this appeal concluded that claimant was ineligible to receive PUA benefits for the weeks of March 15, 2020 through December 5, 2020 (weeks 12-20 through 49-20) because the claims were not timely filed. The dismissal of claimant's late application for review relates only to that determination and does not affect claimant's appeal of the October 19, 2023 PUA determination.

1. The appellant (claimant) must file the request for reconsideration within 20 days of the date this decision was mailed; the date this decision was mailed is December 15, 2023, making the deadline January 4, 2024, to file the request for reconsideration, *and*
2. The appellant must include a statement on the request for reconsideration declaring that they sent a copy of the request to the other party, *and*
3. The appellant must provide additional specific details about the reason they filed a late application for review. For example, the appellant should include specific information about the date they received Order No. 22-UI-199836, whether they read it, whether they agreed or disagreed with Order No. 22-UI-199836, the reason(s) why they did not file a response to the appellant questionnaire or an application for review before the deadline, how the reason(s) affected their ability to file a timely application for review, and any other specific details that might help EAB determine whether the appellant had “good cause,” which means factors or circumstances beyond their reasonable control prevented them from filing a timely application for review, which may include information regarding any disabilities claimant has and if it had any impact on claimant’s ability to timely file an application for review, *and*
4. The appellant must provide the date the circumstances that prevented them from filing a timely application for review (which they listed in response to #3, above) ended, *and*
5. The appellant must provide sufficient information to prove that they filed their application for review within seven days of that date.

The appellant may file a request for reconsideration in many ways; please note that you need only file *one* request for reconsideration:

1. Use your smart phone, tablet, or computer to fill out the “File a Written Argument” form, available on EAB’s website: <https://www.oregon.gov/EMPLOY/EAB/Pages/default.aspx>, *or*
2. Use your smart phone, tablet, or computer to send an email to EAB at [OED\\_EAB\\_OFFICE@employ.oregon.gov](mailto:OED_EAB_OFFICE@employ.oregon.gov), *or*
3. Send the request by U.S. mail or another delivery service, addressed to 875 Union St NE, Salem, Oregon 97311, *or*
4. Send EAB a fax at 503-378-2129.

Claimant should note that even if their late application for review is allowed on reconsideration, the record as presently constituted contains no evidence as to why claimant’s request for hearing on the March 29, 2022 PUA determination was filed late. Claimant may therefore wish to include with their request for reconsideration a response to the appellant questionnaire included with Order No. 22-UI-199836, or otherwise provide an explanation of why their request for hearing, due April 18, 2022, was not filed until April 19, 2022.

**DECISION:** The application for review filed November 8, 2023 is dismissed without prejudice. Order No. 22-UI-199836 remains undisturbed.

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

**DATE of Service: December 15, 2023**

**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 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 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**  
 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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