

**EMPLOYMENT APPEALS BOARD DECISION**  
**2024-EAB-0599-R**

*Request for Reconsideration of EAB Decision 2024-EAB-0599 Dismissed*  
*Request for Reconsideration of EAB Decision 2024-EAB-0600 Allowed*  
*Request for Reconsideration of EAB Decision 2024-EAB-0600 Adhered to on Reconsideration ~*  
*Late Application for Review of Order No. 22-UI-200613 Dismissed*

**PROCEDURAL HISTORY:** On July 13, 2021, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant quit work without good cause and was disqualified from receiving benefits effective March 14, 2021 (decision # 65340). On August 2, 2021, decision # 65340 became final without claimant having filed a request for hearing. On May 4, 2022, the Department served notice of an administrative decision based partly on decision # 65340, concluding that claimant received benefits to which they were not entitled, and assessing an overpayment of \$2,550 in Pandemic Emergency Unemployment Compensation (PEUC) and \$3,000 in Federal Pandemic Unemployment Compensation (FPUC) benefits that claimant was required to repay (decision # 110836). On May 24, 2022, decision # 110836 became final without claimant having filed a request for hearing. On July 27, 2022, claimant filed late requests for hearing on decisions # 65340 and 110836.

ALJ Kangas considered claimant's requests, and on August 16, 2022, issued Orders No. 22-UI-200612 and 22-UI-200613, dismissing the requests as late, subject to claimant's right to renew the requests by responding to an appellant questionnaire by August 30, 2022. On September 6, 2022, Orders No. 22-UI-200612 and 22-UI-200613 became final without claimant having filed a response to the appellant questionnaire or applications for review with the Employment Appeals Board (EAB). On August 13, 2024, claimant filed late applications for review of Orders No. 22-UI-200612 and 22-UI-200613 with EAB. Pursuant to OAR 471-041-0095 (October 29, 2006), EAB consolidated its review of Orders No. 22-UI-200612 and 22-UI-200613, and on August 27, 2024, issued EAB Decisions 2024-EAB-0599 and 2024-EAB-0600, dismissing without prejudice claimant's late applications for review of Orders No. 22-UI-200612 and 22-UI-200613, respectively. On September 4, 2024, claimant filed requests for reconsideration of EAB Decisions 2024-EAB-0599 and 2024-EAB-0600. These decisions are issued pursuant to EAB's authority under ORS 657.290(3).

**CONCLUSIONS AND REASONS:** Claimant’s request for reconsideration of EAB Decision 2024-EAB-0599 is dismissed. Claimant’s request for reconsideration of EAB Decision 2024-EAB-0600 is allowed. On reconsideration, EAB Decision 2024-EAB-0600 is adhered to, as clarified herein.

**Reconsideration.** 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).

EAB dismissed claimant’s late applications for review of Orders No. 22-UI-200612 and 22-UI-200613 without prejudice and subject to claimant filing timely requests for reconsideration within 20 days after EAB’s dismissal decisions were issued. Claimant filed timely requests for reconsideration. The request for reconsideration of EAB Decision 2024-EAB-0599 did not include a statement that a copy was provided to the other party (the employer), as required by OAR 471-041-0145(2). Therefore, claimant’s request for reconsideration of EAB Decision 2024-EAB-0599 is dismissed. However, the employer is not a party to the matter addressed in EAB Decision 2024-EAB-0600, and claimant was not required to serve a copy of their request for reconsideration of that decision on the employer. Therefore, claimant’s request for reconsideration of EAB Decision 2024-EAB-0600 was filed consistent with the requirements set forth in OAR 471-041-0145, and is allowed.

**Late application for review.** 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 included a statement with their requests for reconsideration which may partially explain why they failed to file a timely application for review on Order No. 22-UI-200613. However, claimant’s statement did not show, by a preponderance of the evidence, that the late application for review on that order should be allowed.

In their statement enclosed with their July 29, 2024, late applications for review, claimant stated, “I put in a request for an appeal almost 2 years ago and still have not heard anything.” EAB Exhibit 1 at 2. In their requests for reconsideration, filed September 4, 2024, claimant appeared to expand on this statement by explaining, in relevant part:

I had been told by many that request for unemployment was extremely backed up due to a high number of people collecting during the pandemic. With this understanding I waited to hear something and I paid every month like I agreed to. I finally reached out again last month (August 2024) because I was about to make my final payment toward my “debt” and I still hadn’t heard anything after 2 years, I thought it was time to get it figured out.

Claimant’s Requests for Reconsideration at 1. This statement suggests that claimant may not have become aware of Order No. 22-UI-200613 until August 2024, although the order was issued some two years earlier. If claimant was not aware of Order No. 22-UI-200613 until August 2024 because they had never received the order until that date, they may have had good cause for filing the late application for review. However, claimant did not explain why, if at all, they did not receive or otherwise become aware of Order No. 22-UI-200613 until August 2024. Furthermore, even if claimant had good cause for filing the late application for review because they had not received Order No. 22-UI-200613 until August 2024, claimant did not state the date on which they received the order—at which point the circumstances which prevented claimant’s timely filing would likely have ceased. As such, it is not possible to determine whether claimant’s late application for review was filed within the seven-day “reasonable time” period after the circumstances which prevented claimant’s timely filing ceased.

For the above reasons, claimant has not shown that their late application for review on Order No. 22-UI-200613 should be allowed. Therefore, EAB Decision 2024-EAB-0600 is adhered to on reconsideration.

**DECISION:** Claimant’s request for reconsideration of EAB Decision 2024-EAB-0599 is dismissed. Claimant’s request for reconsideration of EAB Decision 2024-EAB-0600 is allowed. On reconsideration, EAB Decision 2024-EAB-0600 is adhered to, as explained herein.

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

**DATE of Service: September 27, 2024**

**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 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**  
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