

**EMPLOYMENT APPEALS BOARD DECISION**  
**2024-EAB-0689**

*Late Application for Review Allowed  
Reversed & Remanded*

**PROCEDURAL HISTORY:** On June 3, 2024, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant voluntarily quit work without good cause and was therefore disqualified from receiving unemployment insurance benefits effective May 21, 2023, and that claimant had received benefits to which they were not entitled and were liable for a \$990 overpayment of regular unemployment insurance benefits (decision # L0004272255). On June 24, 2024, decision # L0004272255 became final without claimant having filed a request for hearing. On August 15, 2024, claimant filed a late request for hearing. ALJ Kangas considered claimant's request, and on August 28, 2024, issued Order No. 24-UI-264152, dismissing claimant's request for hearing as late, subject to claimant's right to renew the request by responding to an appellant questionnaire by September 11, 2024. On September 17, 2024, Order No. 24-UI-264152 became final without claimant having filed a response to the appellant questionnaire or an application for review of Order No. 24-UI-264152 with the Employment Appeals Board (EAB). On September 27, 2024, claimant filed a late application for review with EAB. This matter comes before EAB based upon claimant's September 27, 2024, application for review of Order No. 24-UI-264152.

**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 written statement explaining why claimant's application for review is late. The written statement is 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.

**FINDINGS OF FACT:** (1) Claimant has schizophrenia. The condition "makes complex tasks impossible when it is inflamed." EAB Exhibit 1 at 1. The condition is "[o]ften so bad that [claimant] cannot wash [themselves], eat, or complete tasks." EAB Exhibit 1 at 1.

(2) On June 3, 2024, the Department mailed decision # L0004272255 to claimant's address on file with the Department. Decision # L0004272255 stated, "You have the right to appeal our decision and request a hearing if you believe our decision is wrong. We must receive your request for a hearing no later than **June 24, 2024.**" Exhibit 1 at 3 (emphasis in original).

(3) On June 24, 2024, decision # L0004272255 became final without claimant having filed a request for hearing. On August 15, 2024, claimant filed a late request for hearing on decision # L0004272255.

(4) On August 28, 2024, the Office of Administrative Hearings (OAH) mailed Order No. 24-UI-264152 to claimant's address on file with OAH. Order No. 24-UI-264152 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. 24-UI-264152 at 2. Order No. 24-UI-264152 also stated on its certificate of mailing that "Any party may appeal this Order by filing a Request for Review with the Employment Appeals Board no later than September 17, 2024."

(5) Claimant was unable file a timely application for review of Order No. 24-UI-264152 because of symptoms caused by schizophrenia.

(6) On September 17, 2024, claimant's schizophrenia symptoms eased to a degree that claimant was able "to put pen to paper" and carry out the task of filing an application for review. On that date, claimant filed an application for review of Order No. 24-UI-264152.

**CONCLUSIONS AND REASONS:** Claimant's late application for review is allowed. Order No. 24-UI-264152 is set aside and this matter remanded for a hearing on whether claimant's late request for hearing on decision # L0004272255 should be allowed, and if so, the merits of that decision.

**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).

The application for review of Order No. 24-UI-264152 was due by September 17, 2024. Because claimant did not file their application for review until September 27, 2024, the application for review was late.

Claimant's schizophrenia symptoms were factors beyond claimant's reasonable control that prevented them from timely filing an application for review. The condition "makes complex tasks impossible when it is inflamed" and is "[o]ften so bad that [claimant] cannot wash [themselves], eat, or complete tasks." EAB Exhibit 1 at 1. On September 27, 2024, claimant's symptoms eased to a degree that claimant was able to carry out the task of filing an application for review. Claimant filed an application for review of Order No. 24-UI-264152 on September 27, 2024.

Thus, claimant showed good cause to extend the deadline to file an application for review of Order No. 24-UI-264152 because their schizophrenia symptoms were factors beyond their reasonable control that prevented a timely filing. Those factors ended on September 27, 2024, when claimant's symptoms eased to a degree sufficient to file an application for review. Claimant filed the same day, which was within a seven-day reasonable time. Accordingly, claimant established good cause to extend the application for review filing deadline and filed within a reasonable time. The late application for review is therefore allowed.

**Late Request for Hearing.** ORS 657.269 provides that the Department's decisions become final unless a party files a request for hearing within 20 days after the date the decision is mailed. ORS 657.875 provides that the 20-day deadline may be extended a "reasonable time" upon a showing of "good cause." OAR 471-040-0010 (February 10, 2012) provides that "good cause" includes factors beyond an applicant's reasonable control or an excusable mistake, and defines "reasonable time" as seven days after those factors ceased to exist.

The deadline for claimant to file a timely request for hearing on the Department's decision # L0004272255 was June 24, 2024. Because claimant did not file a request for hearing until August 15, 2024, the request for hearing was late.

As described in claimant's written statement, claimant's schizophrenia symptoms are debilitating and if "inflamed" could have constituted factors beyond claimant's reasonable control that prevented them from timely filing a request for hearing by June 24, 2024. However, remand is necessary to develop the record to determine whether claimant's schizophrenia symptoms had the effect of preventing claimant from filing a request for hearing on decision # L0004272255, and, if so, whether claimant's August 15, 2024, late request for hearing occurred within a seven-day reasonable time of when those factors ended.

To that end, on remand, the ALJ should inquire whether claimant was experiencing debilitating schizophrenia symptoms during the applicable timeframe between when decision # L0004272255 was mailed on June 3, 2024, through when claimant filed their late hearing request on August 15, 2024. The ALJ should ask questions to develop when, if ever, these symptoms subsided or eased sufficient to enable claimant to file a hearing request and whether claimant's August 15, 2024, late request for hearing occurred within seven days of that date. The ALJ should also ask questions to develop the record as to whether any factor besides claimant's schizophrenia prevented claimant from filing in a timely manner, whether that factor was a circumstance beyond claimant's reasonable control or an excusable mistake, and, if it was, whether claimant filed their late request for hearing within seven days of when any such factors ended.

Order No. 24-UI-264152 therefore is reversed, and this matter remanded for a hearing on whether claimant's late request for hearing on decision # L0004272255 should be allowed, and if so, the merits of that decision.

**DECISION:** Order No. 24-UI-264152 is set aside, and this matter remanded for further proceedings consistent with this order.

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

**DATE of Service: October 18, 2024**

**NOTE:** The failure of any party to appear at the hearing on remand will not reinstate Order No. 24-UI-264152 or return this matter to EAB. Only a timely application for review of the subsequent order will cause this matter to return to EAB.

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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.

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