

**EMPLOYMENT APPEALS BOARD DECISION**  
**2024-EAB-0775**

*Reversed & Remanded*

**PROCEDURAL HISTORY AND FINDINGS OF FACT:** On February 26, 2024, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant failed to register for work in accordance with the Department's rules and was ineligible for benefits for the week of January 28 through February 3, 2024 (week 05-24) and until the reason for the denial ended. On March 18, 2024, the February 26, 2024, administrative decision became final without claimant having filed a request for hearing. On September 4, 2024, claimant filed a late request for hearing.

ALJ Scott considered claimant's request, and on September 17, 2024, issued Order No. 24-UI-266382, dismissing the request as late, subject to claimant's right to renew the request by responding to an appellant questionnaire by October 1, 2024. On October 7, 2024, claimant filed a response to the appellant questionnaire that was late because it was filed after October 1, 2024, although by the October 7, 2024, deadline to file an application for review of Order No. 24-UI-266382 with the Employment Appeals Board (EAB).

On October 15, 2024, ALJ Kangas issued Order No. 24-UI-269449, finding that claimant failed to file an appellant questionnaire response by the October 1, 2024, deadline, re-dismissing claimant's request for hearing as late without a showing of good cause, and leaving the February 26, 2024, administrative decision undisturbed. On November 3, 2024, claimant filed an application for review of Order No. 24-UI-269449 with EAB.

**EVIDENTIARY MATTER:** Claimant's appellant questionnaire response was not filed by the October 1, 2024, deadline, but was filed before Order No. 24-UI-266382 became final. The late questionnaire response was admitted into the record as Exhibit 3 but was not considered by the ALJ when issuing Order No. 24-UI-269449. However, the October 7, 2024, application for review filing deadline was listed on the certificate of mailing of Order No. 24-UI-266382 along with the October 1, 2024, deadline to file the appellant questionnaire response, creating a substantial likelihood that claimant confused the two deadlines. Given the potential for confusing the two deadlines and the fact that claimant filed their questionnaire response by the October 7, 2024, deadline to file an application for review of Order No.

24-UI-266382, EAB considered the late appellant questionnaire response when reaching this decision. See OAR 471-041-0090(1) (May 13, 2019).

**WRITTEN ARGUMENT:** With their application for review, claimant submitted a written argument with substantially the same information contained in their October 7, 2024, late appellant questionnaire response. However, the argument contained some additional evidence, and did not show that factors or circumstances beyond claimant’s reasonable control prevented them from offering the information with their appellant questionnaire response. Under ORS 657.275(2) and OAR 471-041-0090 (May 13, 2019), EAB did not consider that additional evidence when reaching this decision.

**CONCLUSIONS AND REASONS:** Order No. 24-UI-269449 is set aside, and this matter remanded for a hearing on whether to allow claimant’s late request for hearing on the February 26, 2024, administrative decision and, if so, the merits of that decision.

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 ended.

The deadline to file a timely request for hearing on the February 26, 2024, administrative decision was March 18, 2024. Because claimant did not request a hearing on the February 26, 2024, administrative decision until September 4, 2024, the request for hearing was late.

The information contained in claimant’s appellant questionnaire response suggests that in early January 2024, claimant filed an initial claim and thereafter claimed some weeks of benefits. Exhibit 3 at 3. The Department then made claimant aware of some issues on their initial and weekly claims, and with the help of a Department representative, claimant was able to access their Frances Online account and correct those issues. Exhibit 3 at 3. Then, “[m]ore issues on the claim came in the mail,” but claimant believed “some of them had been resolved and it was unclear what actions needed to be taken.” Exhibit 3 at 3. Claimant sought clarification, but “was unable to reach a representative again via email, online ticketing system and repeated weekly phone calls to the [D]epartment[.]” Exhibit 3 at 3.

The information contained in claimant’s appellant questionnaire response suggests that on August 12, 2024, claimant was able to reach a representative and regain access to their Frances Online account. Exhibit 3 at 3. At that time, while in communication with the Representative, claimant verified their identity but was told they needed to transfer to another representative to file the identity verifying information. Exhibit 3 at 3. During that transfer, claimant’s call was dropped. Exhibit 3 at 3. Claimant was unable to reach a representative again for weeks. Exhibit 3 at 3. Claimant eventually got through to another representative and worked with that representative to file claims for benefits for past weeks. Exhibit 3 at 3. The representative told claimant that because the weeks “were so far in the past, the system would deny them,” but that claimant “should appeal when [he] received those decisions.” Exhibit 3 at 3. Claimant then waited, and on September 4, 2024, accessed his Frances Online account “and looked through the claim history and clicked the earliest week [they] could find[.]” Evidently, in this way, claimant selected the February 26, 2024, administrative decision and filed a late request for hearing

on the decision. Claimant asserted that he had been “unable to access” the February 26, 2024, administrative decision earlier “because of the issues with [their] online portal[.]” Exhibit 3 at 3.

Further development of the record is necessary to determine whether claimant had good cause to file the late request for hearing on the February 26, 2024, administrative decision and, if so, whether claimant filed within a reasonable time of when the factors preventing a timely filing ended.

On remand, the ALJ should inquire as to when, if ever, claimant received the February 26, 2024, administrative decision, and whether it was received by mail, email, or by accessing claimant’s Frances Online portal and reading the decision. If claimant is unable to identify the specific date and method of receipt, the ALJ should ask whether receipt of the February 26, 2024, administrative decision may have occurred shortly after claimant filed their initial claim and the Department made claimant aware of some issues on their initial and weekly claims that claimant was able to correct using their Frances Online account. Or whether claimant may have received the February 26, 2024, administrative decision during the period when “[m]ore issues on the claim came in the mail,” but claimant believed “some of them had been resolved and it was unclear what actions needed to be taken.” Exhibit 3 at 3. The ALJ should inquire whether claimant may have received the decision or become aware of it and their right to appeal it on August 12, 2024, when claimant was able to reach a representative and regain access to their Frances Online account.

The ALJ should ask questions to develop whether, when claimant accessed the February 26, 2024, administrative decision and appealed it via Frances Online on September 4, 2024, that was when claimant first became aware of the decision and their right to appeal it, and if not, when and how claimant had become aware of the decision and the right to appeal it earlier. The ALJ should ask questions to clarify why claimant believed that “issues with [their] online portal” had made them unable to access the February 26, 2024, administrative decision before September 4, 2024, given that claimant had previously had access to Frances Online, with the help of Department representatives, near in time to when they filed their initial claim and on August 12, 2024. The ALJ should further ask claimant to explain what caused them to lose access and need help from representatives to access their Frances Online account in the first place.

If the record on remand shows that technical difficulties with Frances Online, a failure to receive the February 26, 2024, administrative decision, or some other combination of factors constituted good cause for claimant’s late request for hearing, the ALJ should ask questions to develop whether claimant’s late request for hearing was filed within a seven-day reasonable time of when those factors ended. If claimant establishes good cause for the late request for hearing and filed within a reasonable time, the late request for hearing should be allowed and the ALJ should turn to the merits of the case.

Order No. 24-UI-269449 therefore is reversed, and this matter remanded for a hearing on whether to allow claimant’s late request for hearing and, if so, the merits of the February 26, 2024, administrative decision.

**DECISION:** Order No. 24-UI-269449 is set aside, and this matter remanded for further proceedings consistent with this order.

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

**DATE of Service: November 25, 2024**

**NOTE:** The failure of any party to appear at the hearing on remand will not reinstate Order No. 24-UI-269449 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 ໄດ້ ໂດຍປະຕິບັດຕາມຄໍາແນະນໍາທີ່ບອກໄວ້ຢູ່ຕອນທ້າຍຂອງຄໍາຕັດສິນນີ້.

**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.

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