

**EMPLOYMENT APPEALS BOARD DECISION**  
**2024-EAB-0842**

*Reversed & Remanded*

**PROCEDURAL HISTORY:** On August 27, 2024, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant had failed to provide information to verify their identity and was therefore ineligible to receive unemployment insurance benefits effective August 25, 2024 (decision # L0005830669).<sup>1</sup> On September 16, 2024, decision # L0005830669 became final without claimant having filed a request for hearing. On September 27, 2024, claimant filed a late request for hearing. ALJ Kangas considered the request, and on November 20, 2024, issued Order No. 24-UI-273946, dismissing the request as late, subject to claimant's right to renew the request by responding to an appellant questionnaire by December 4, 2024. On December 10, 2024, claimant filed an application for review with the Employment Appeals Board (EAB).

**EVIDENTIARY MATTER:** EAB has considered additional evidence when reaching this decision under OAR 471-041-0090(1) (May 13, 2019). The additional evidence is the statement included with claimant's application for review, has been marked as EAB Exhibit 1, and a copy provided to the parties with this decision. Any party that objects to EAB taking notice of this information must send their objection to EAB in writing, saying why they object, within ten days of EAB mailing this decision. OAR 471-041-0090(2). Unless EAB receives and agrees with the objection, the exhibit will remain in the record.

**FINDING OF FACT:** (1) Decision # L0005830669, mailed to claimant's address of record on August 27, 2024, 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 **September 16, 2024.**" Exhibit 1 at 2 (emphasis in original).

<sup>1</sup> Decision # L0005830669 stated that the ineligibility period began August 26, 2024. However, because benefit weeks begin on Sunday and August 26, 2024 was a Monday, it is presumed that the decision intended the period to begin on Sunday, August 25, 2024.

**CONCLUSIONS AND REASONS:** Order No. 24-UI-273946 is set aside and the matter remanded for a hearing to determine whether claimant’s late request for hearing should be allowed and, if so, the merits of decision # L0005830669.

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.

OAR 471-040-0005 (July 15, 2018) provides, in relevant part:

(1) A Request for hearing may be filed on forms provided by the Employment Department or similar offices in other states. Use of the form is not required provided the party specifically requests a hearing or otherwise expresses a present intent to appeal and it can be determined what issue or decision is being appealed.

(2) A request for hearing on an administrative decision related to the payment or amount of unemployment insurance benefits may be filed:

(a) By mail, fax, e-mail, or other means as designated by Employment Department **with** the appealable document; or

(b) In person at any publicly accessible Employment Department office in Oregon.

\* \* \*

The request for hearing on decision # L0005830669 was due by September 16, 2024. Claimant’s request for hearing was filed on September 27, 2024, and therefore it was late. Claimant wrote in a statement accompanying their application for review that on August 27, 2024, the date the administrative decision was issued, claimant sent a message to the Department using Frances Online with identity information and “thought [they] submitted an appeal” of the decision by sending the message. EAB Exhibit 1 at 1. Claimant further wrote that a Department representative replied on September 16, 2024, with instructions on how to file a request for hearing. Claimant wrote that they did not discover the response in Frances until September 27, 2024. EAB Exhibit 1 at 2. Claimant filed a late request for hearing that day.

The record suggests that claimant may have filed a timely request for hearing on August 27, 2024, that the Department failed to process. Further, if claimant’s message did not constitute a request for hearing within the provisions of OAR 471-040-0005(1), claimant’s belief that it constituted a hearing request might nonetheless have constituted an excusable mistake that prevented timely filing of the request for hearing. Further development of the record is therefore warranted.

On remand, inquiry should be made into the contents of claimant’s August 27, 2024, message and whether it expressed a present intent to appeal decision # L0005830669. If the message did not

constitute a timely request for hearing, further inquiry should be made to determine whether claimant had reason to believe that the message would be construed as a request for hearing, and whether claimant delayed filing a hearing request for that reason. If good cause is found to extend the filing deadline, further inquiry should be made to determine whether the late request for hearing was filed within a “reasonable time” after the factor that prevented timely filing ended, which would include the circumstances that delayed claimant’s discovery of the Department’s September 16, 2024, response.

For these reasons, Order No. 24-UI-273946 is set aside and the matter remanded for a hearing to determine whether claimant’s late request for hearing should be allowed and, if so, the merits of decision # L0005830669.

**DECISION:** Order No. 24-UI-273946 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: January 8, 2025**

**NOTE:** The failure of any party to appear at the hearing on remand will not reinstate Order No. 24-UI-273946 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 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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 Website: [www.Oregon.gov/employ/pages/employment-appeals-board.aspx](http://www.Oregon.gov/employ/pages/employment-appeals-board.aspx)

The Oregon Employment Department is an equal opportunity employer/program. Auxiliary aids and services are available upon request to individuals with disabilities. Language assistance is available to persons with limited English proficiency at no cost.

El Departamento de Empleo de Oregon es un programa que respeta la igualdad de oportunidades. Disponemos de servicios o ayudas auxiliares, formatos alternos y asistencia de idiomas para personas con discapacidades o conocimiento limitado del inglés, a pedido y sin costo.