

EMPLOYMENT APPEALS BOARD DECISION
2025-EAB-0030

Reversed & Remanded

PROCEDURAL HISTORY: On June 24, 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 unemployment insurance benefits for the week of August 20, 2023 through August 26, 2023 (week 34-23) and until the reason for the denial ended (decision # L0004670214). Also on June 24, 2024, the Department served notice of an administrative decision concluding that claimant failed to provide identification information in accordance with the Department's rules and therefore was ineligible for benefits for week 34-23 and until the reason for the denial ended (decision # L0004627959). On July 15, 2024, decisions # L0004670214 and L0004627959 became final without claimant having filed requests for hearing on the decisions. On August 30, 2024, claimant filed late requests for hearing on decisions # L0004670214 and L0004627959.

ALJ Scott considered claimant's requests, and on September 18, 2024 issued Orders No. 24-UI-266535 and 24-UI-266532, dismissing claimant's requests for hearing as late, subject to claimant's right to renew the requests by responding to an appellant questionnaire by October 2, 2024. On October 2, 2024, the deadline passed without claimant having filed a response to the appellant questionnaire. On October 8, 2024, Orders No. 24-UI-266535 and 24-UI-266532 became final without claimant having filed applications for review with the Employment Appeals Board (EAB).

On December 17, 2024, claimant sent an email to the Office of Administrative Hearings (OAH), which OAH considered to be a late appellant questionnaire response. On January 7, 2025, ALJ Kangas issued Orders No. 25-UI-278925 and 25-UI-278924, finding that claimant had failed to file an appellant questionnaire response by the October 2, 2024, deadline, canceling Orders No. 24-UI-266535 and 24-UI-266532, re-dismissing claimant's requests for hearing as late without a showing of good cause, and leaving decisions # L0004670214 and L0004627959 undisturbed. On January 10, 2025, claimant filed timely applications for review of Orders No. 25-UI-278925 and 25-UI-278924 with EAB.

EAB combined its review of Orders No. 25-UI-278925 and 25-UI-278924 under OAR 471-041-0095 (October 29, 2006). For case-tracking purposes, this decision is being issued in duplicate (EAB Decisions 2025-EAB-0030 and 2025-EAB-0031).

FINDINGS OF FACT: (1) On June 24, 2024, the Department mailed decision # L0004670214 to claimant's address on file with the Department. Decision # L0004670214 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 July 15, 2024." Order No. 25-UI-278925, Exhibit 1 at 1.

(2) Also on June 24, 2024, the Department mailed decision # L0004627959 to claimant's address on file with the Department. Decision # L0004627959 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 July 15, 2024." Order No. 25-UI-278924, Exhibit 1 at 1.

(3) On July 15, 2024, decisions # L0004670214 and L0004627959 became final without claimant having filed requests for hearing. On August 30, 2024, claimant filed late requests for hearing by phone. Exhibit 2 at 1.

(4) When the late requests for hearing were filed, a Department representative who assisted claimant noted, "Appeal is being submitted late because the claimant just found out was denied for this reason and didn't realize the denial needed to be appealed to allow benefits." Order No. 25-UI-278925, Exhibit 2 at 4.

CONCLUSIONS AND REASONS: Orders No. 25-UI-278925 and 25-UI-278924 are set aside, and these matters remanded for a hearing on whether claimant's late requests for hearing on decisions # L0004670214 and L0004627959 should be allowed, and if so, the merits of those decisions.

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 to file timely requests for hearing on decisions # L0004670214 and L0004627959 was July 15, 2024. Because claimant did not file their requests for hearing on decisions # L0004670214 and L0004627959 until August 30, 2024, the requests were late.

Claimant's hearing request referral forms state, "Appeal is being submitted late because the claimant just found out was denied for this reason and didn't realize the denial needed to be appealed to allow benefits." Order No. 25-UI-278925, Exhibit 2 at 4. This information suggests the possibility that claimant did not receive decisions # L0004670214 and L0004627959 in the mail and was unaware of the decisions and their right to appeal them. If claimant failed to receive decisions # L0004670214 and L0004627959, good cause to extend the filing deadline beyond July 15, 2024 may exist. However, remand is necessary to develop the record regarding whether claimant had good cause to file the hearing requests late and, if so, whether they did so within a reasonable time.

On remand, the ALJ should inquire as to whether claimant received decisions # L0004670214 and L0004627959 and, if so, when. If claimant did not receive the decisions, the ALJ should inquire when

claimant learned of the existence of decisions # L0004670214 and L0004627959 and their right to appeal those decisions, and whether claimant's August 30, 2024 late requests for hearing occurred within a seven-day "reasonable time" of that date. If the record on remand shows that claimant had good cause to file their late requests for hearing and the hearing requests were filed within a reasonable time, the late requests for hearing should be allowed and the ALJ should turn to the merits of the cases.

Orders No. 25-UI-278925 and 25-UI-278924 therefore are reversed, and these matters remanded for a hearing on whether claimant's late requests for hearing on decisions # L0004670214 and L0004627959 should be allowed, and if so, the merits of those decisions.

DECISION: Orders No. 25-UI-278925 and 25-UI-278924 are set aside, and these matters remanded for further proceedings consistent with this order.

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

DATE of Service: January 31, 2025

NOTE: The failure of any party to appear at the hearings on remand will not reinstate Orders No. 25-UI-278925 and 25-UI-278924 or return these matters to EAB. Only a timely application for review of the subsequent order in each case will cause either of these matters 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 دستورالعمل موجود در پایان آن، از دادگاه تجدید نظر اورگان درخواست تجدید نظر کنید.

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