

EMPLOYMENT APPEALS BOARD DECISION
2025-EAB-0179

Affirmed
Late Request for Hearing Dismissed

PROCEDURAL HISTORY: On February 23, 2022, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant received benefits to which they were not entitled, and assessing an overpayment of \$151 in Pandemic Emergency Unemployment Compensation (PEUC) and \$300 in Federal Pandemic Unemployment Compensation (FPUC) benefits that claimant was required to repay (decision # 83728). On March 15, 2022, decision # 83728 became final without claimant having filed a request for hearing.

On January 27, 2025, claimant filed a late request for hearing. ALJ Kangas considered claimant's request, and on February 26, 2025, issued Order No. 25-UI-284281, dismissing the request as late, subject to claimant's right to renew the request by responding to an appellant questionnaire by March 12, 2025. On March 17, 2025, claimant filed a late response to the appellant questionnaire and a timely application for review of Order No. 25-UI-284281 with the Employment Appeals Board (EAB). This matter comes before EAB based upon claimant's timely application for review of Order No. 25-UI-284281.

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 appellant questionnaire response, has been marked as EAB Exhibit 1, and 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, stating 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.

FINDINGS OF FACT: (1) Decision # 83728, sent on February 23, 2022, by first class mail via the U.S. Postal Service to claimant's address on file with the Department, stated, "If you disagree with the amount of the overpayment, you have the right to appeal this decision. Any appeal from this decision must be filed on or before March 15, 2022, to be timely." Exhibit 1 at 2.

(2) On an unspecified date, claimant received decision # 83728. At some point thereafter, claimant was subjected to "Bill collection" based on the overpayment established by decision # 83728. EAB Exhibit 1

at 2. On January 27, 2025, the “Bill collection” process prompted claimant to file a hearing request on decision # 83728.

CONCLUSIONS AND REASONS: Claimant’s late request for hearing is dismissed.

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 request for hearing on decision # 83728 was due by March 15, 2022. Because claimant did not file their request for hearing until January 27, 2025, the request for hearing was late.

The appellant questionnaire asked claimant on what date they received decision # 83728, to which they responded, “Don’t remember[.]” EAB Exhibit 1 at 1. Claimant also stated, “Bill collection,” when asked what prompted them to file their hearing request on January 27, 2025. EAB Exhibit 1 at 2. Otherwise, when asked why they did not file the hearing request by the March 15, 2022, deadline, claimant wrote, “Unknown about it.” EAB Exhibit 1 at 2.

Claimant’s appellant questionnaire response shows that claimant received decision # 83728 at an unspecified time that they cannot now recall, and filed their request for hearing on January 27, 2025, because they were being subjected to a collections process based on the overpayment established by the administrative decision. Claimant did not file a hearing request by the March 15, 2022, deadline because they did not know about the deadline.

Decision # 83728 was mailed via the U.S. Postal service to claimant’s address of record and the available information shows that claimant received the decision. In addition, given that decision # 82728 was mailed via the U.S. Postal Service and claimant did not offer evidence to suggest that they did not receive it, claimant is presumed to have received the administrative decision. *See* OAR 137-003-0520(10) (January 31, 2012) (“Documents sent through the U.S. Postal Service by regular mail are presumed to have been received by the addressee, subject to evidence to the contrary.”); *see also* ORS 40.135(1)(q) (setting forth a similar presumption in civil and criminal court proceedings). Since the delivery standard, not guaranteed, for first class mail sent through the U.S. Postal Service is estimated to be 1-5 business days after mailing,¹ claimant presumably received the administrative decision within five days of the decision’s February 23, 2022, mailing date, which was ample time to file a hearing request by the March 15, 2022, deadline.

Claimant failed to establish good cause to extend the deadline for timely filing the hearing request. First, claimant did not show that factors beyond their reasonable control prevented them from filing the

¹ EAB has taken notice of this fact, which is a generally cognizable fact. OAR 471-041-0090(1). A copy of the information is available to the parties at https://faq.usps.com/s/article/Delayed-Mail-and-Packages#check_mail_delivery_standards. Any party that objects to our taking notice of this information 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 noticed fact will remain in the record.

hearing request by March 15, 2022. Although claimant's appellant questionnaire response asserts that they did not know about the March 15, 2022, deadline to appeal, decision # 83728 stated, "If you disagree with the amount of the overpayment, you have the right to appeal this decision. Any appeal from this decision must be filed on or before March 15, 2022, to be timely." Exhibit 1 at 2. Claimant did not assert that anything prevented them from carefully reading the administrative decision and taking note of their right to appeal and the deadline by which to do so. Because claimant received the decision and the decision advised them of the right to appeal and the deadline for doing so, claimant did not show that factors beyond their reasonable control prevented them from filing by the March 15, 2022, deadline.

Second, claimant's failure to appeal by the March 15, 2022 deadline because they did not know about their right to appeal likely was the result of a mistake on claimant's part. However, it was not an "excusable mistake" within the meaning of the administrative rules because it did not, for example, raise a due process issue, and was not the result of inadequate notice, reasonable reliance on another, or the inability to follow directions despite substantial efforts to comply.

Accordingly, good cause does not exist to extend the deadline to timely file the request for hearing on decision # 83728. Claimant's late request for hearing therefore is dismissed.

DECISION: Order No. 25-UI-284281 is affirmed.

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

DATE of Service: April 18, 2025

NOTE: The Department may defer recovery or completely waive the overpaid amount if certain standards are met. If you apply but do not qualify for a waiver, other relief may be available, such as temporarily pausing collection efforts or limiting reductions of current benefits. It is important to apply for a waiver as soon as possible because waivers are not retroactive. For more information on requesting a waiver, go to <https://unemployment.oregon.gov/overpayments>. The Overpayment Waiver Application is available for download at <https://unemployment.oregon.gov/uploads/docs/FORM129-EN.pdf> and can be submitted in any of these ways:

- **Frances Online:** Log in to your Frances Online account and use "Send a Message"
- **Use the Contact Us form online at:** unemployment.oregon.gov/contact
- **Email:** UIOverpayments@employ.oregon.gov – Subject: "Waiver Request"
- **Fax:** 503-947-1811 – ATTN: BPC Waiver Requests
- **U.S. Mail:** BPC Overpayment Waivers, PO Box 14130, Salem, OR 97311

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 stated above.** See ORS 657.282. For forms and information, visit <https://www.courts.oregon.gov/courts/appellate/forms/Pages/appeal.aspx> and choose the appropriate form under "File a Petition for Judicial Review." You may also contact the Court of Appeals by telephone at (503) 986-5555, by fax at (503) 986-5560, or by mail at 1163 State Street, Salem, Oregon 97301.

Please help us improve our service by completing an online customer service survey. To complete the survey, please go to <https://www.surveygizmo.com/s3/5552642/EAB-Customer-Service-Survey>. If you are unable to complete the survey online and wish to have a paper copy of the survey, please contact our office.



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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Website: www.Oregon.gov/employ/pages/employment-appeals-board.aspx

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