

EMPLOYMENT APPEALS BOARD DECISION
2025-EAB-0183

Late Applications for Review Dismissed

PROCEDURAL HISTORY: On February 27, 2023, 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 \$1,230 in Pandemic Unemployment Assistance (PUA) benefits and \$1,800 in Federal Pandemic Unemployment Compensation (FPUC) benefits that claimant was required to repay to the Department (decision # 95507). On March 20, 2023, decision # 95507 became final without claimant having filed a request for hearing. On June 12, 2024, the Department served notice of an administrative decision denying claimant's request to waive recovery of the \$2,779.80 remaining balance of overpaid federal benefits (decision # L0004487768). On July 2, 2024, decision # L0004487768 became final without claimant having filed a request for hearing. On November 12, 2024, claimant filed late requests for hearing on decisions # 95507 and L0004487768.

ALJ Kangas considered the requests, and on November 18, 2024, issued Orders No. 24-UI-273576 and 24-UI-273577, dismissing claimant's requests for hearing on decisions # 95507 and L0004487768, respectively, as late, subject to claimant's right to renew the requests by responding to appellant questionnaires by December 2, 2024. On December 9, 2024, Orders No. 24-UI-273576 and 24-UI-273577 became final without claimant having filed responses to the appellant questionnaires or applications for review with the Employment Appeals Board (EAB). On March 17, 2025, claimant filed late appellant questionnaire responses and late applications for review of Orders No. 24-UI-273576 and 24-UI-273577 with EAB.

Pursuant to OAR 471-041-0095 (October 29, 2006), EAB consolidated its review of Orders No. 24-UI-273576 and 24-UI-273577. For case-tracking purposes, this decision is being issued in duplicate (EAB Decisions 2025-EAB-0182 and 2025-EAB-0183).

EVIDENTIARY MATTER: EAB has considered additional evidence when reaching this decision under OAR 471-041-0090(1) (May 13, 2019). The additional evidence consists of claimant's responses to the appellant questionnaires, which contain information relevant to the late filing of the applications for review. The responses have 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, 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.

FINDINGS OF FACT: (1) Order No. 24-UI-273576, mailed to claimant on November 18, 2024, 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-273576 at 2. Order No. 24-UI-273576 also stated on its Certificate of Mailing, “Any party may appeal this Order by filing a Request for Review with the Employment Appeals Board no later than December 9, 2024.”

(2) Order No. 24-UI-273577, mailed to claimant on November 18, 2024, 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-273577 at 2. Order No. 24-UI-273577 also stated on its Certificate of Mailing, “Any party may appeal this Order by filing a Request for Review with the Employment Appeals Board no later than December 9, 2024.”

(3) On March 17, 2025, claimant filed applications for review of Orders No. 24-UI-273576 and 24-UI-273577.

CONCLUSIONS AND REASONS: Claimant’s late applications for review are dismissed.

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 applications for review of Orders No. 24-UI-273576 and 24-UI-273577 were due by December 9, 2024. Because claimant filed their applications for review on March 17, 2025, they were late. Claimant included appellant questionnaire responses with the late applications for review. However, those responses focused mainly on why the requests for hearing on decisions # 95507 and L0004487768 were filed late, and did not directly address why the applications for review were filed late. Nonetheless, the responses referenced “[t]he entire appeal process,” and to that extent, are consistent with the threshold requirements for consideration set forth in OAR 471-041-0070(3). EAB Exhibit 1 at 2.

Claimant wrote in their responses, “The entire appeal process was extremely confusing [and] it was so hard to get someone on the phone I could talk to that would [decipher] the government language [and] what actions I needed to [take].” EAB Exhibit 1 at 2. Claimant also wrote of being “mentally exhausted” and of being “not able to handle commitment beyond day to day tasks due to mental health and financial hardships.” EAB Exhibit 1 at 2. It is unclear from these statements when claimant was affected by these circumstances, and therefore whether they impacted claimant’s ability to file applications for review by the December 9, 2024, deadline. Other statements in the responses suggest that claimant was primarily

or exclusively concerned with obtaining a more detailed explanation from the Department as to why the overpayment at issue in decision #95507 was assessed, or the waiver request at issue in decision # L0004487768 denied, rather than seeking assistance to file timely applications for review. *See* EAB Exhibit 1 at 2, 4. Therefore, claimant has not shown that factors or circumstances beyond their reasonable control prevented timely filing of the applications for review.

Moreover, claimant's responses also did not explain, if claimant was prevented from timely filing applications for review, when and how the circumstances that prevented timely filing changed between December 9, 2024, and March 17, 2025, such that claimant was capable of filing applications for review on the latter date, but not earlier. Accordingly, good cause has not been shown for the late filings, and claimant's late applications for review are dismissed.

DECISION: The applications for review filed March 17, 2025 are dismissed. Orders No. 24-UI-273576 and 24-UI-273577 remain undisturbed.

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

DATE of Service: April 17, 2025

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.

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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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