

EMPLOYMENT APPEALS BOARD DECISION
2025-EAB-0241-R

Requests for Reconsideration Allowed
Late Applications for Review Allowed
Orders No. 23-UI-229453 and 23-UI-229450 Reversed & Remanded

PROCEDURAL HISTORY: On October 2, 2020, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant voluntarily quit work without good cause and was disqualified from receiving unemployment insurance benefits effective March 24, 2020 (decision # 71317). On October 6, 2020, the Department served notice of an administrative decision, based in part on decision # 71317, concluding that claimant willfully made a misrepresentation and failed to report a material fact to obtain benefits, and assessing a \$2,869 overpayment of regular unemployment insurance (regular UI) benefits and a \$9,600 overpayment of Federal Pandemic Unemployment Compensation (FPUC) benefits that claimant was required to repay to the Department, a \$430.35 monetary penalty, and an 18-week penalty disqualification from future benefits. On October 22, 2020, decision # 71317 became final without claimant having filed a request for hearing. On October 26, 2020, the October 6, 2020, administrative decision became final without claimant having filed a request for hearing. On February 14, 2023, claimant filed late requests for hearing on decision # 71317 and the October 6, 2020, administrative decision.

ALJ Kangas considered claimant's requests, and on July 5, 2023, issued Orders No. 23-UI-229453 and 23-UI-229450, dismissing claimant's requests for hearing as late, subject to claimant's right to renew the requests by responding to an appellant questionnaire by July 19, 2023. On July 25, 2023, Orders No. 23-UI-229453 and 23-UI-229450 became final without claimant having filed an appellant questionnaire response or an application for review with the Employment Appeals Board (EAB). On April 20, 2025, claimant filed late applications for review of Orders No. 23-UI-229453 and 23-UI-229450 with EAB.

EAB combined its review of Orders No. 23-UI-229453 and 23-UI-229450 under OAR 471-041-0095 (October 29, 2006). On May 16, 2025, EAB issued EAB Decisions 2025-EAB-0241 and 2025-EAB-0240. On May 30, 2025, claimant filed a request for reconsideration with EAB. This decision is issued pursuant to EAB's authority under ORS 657.290(3). For case-tracking purposes, this decision is being issued in duplicate (EAB Decisions 2025-EAB-0241-R and 2025-EAB-0240-R).

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 request for reconsideration, has been marked as EAB Exhibit 2, 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) Claimant lived at an address in Eugene, Oregon from February 2020 until October 2020. EAB Exhibit 2 at 4.

(2) On October 2, 2020, the Department mailed decision # 71317 to claimant's address on file with the Department, which was the Eugene address. Decision # 71317 stated, "You have the right to appeal this decision if you do not believe it is correct. Your request for appeal must be received no later than October 22, 2020." Order No. 23-UI-229453, Exhibit 1 at 2.

(3) On October 6, 2020, the Department mailed the October 6, 2020, administrative decision to claimant's address on file with the Department, which was the Eugene address. The October 6, 2020, administrative decision stated, "Any appeal from this decision must be filed on or before October 26, 2020, to be timely." Order No. 23-UI-229450, Exhibit 1 at 1.

(4) In November 2020, claimant moved to Bend, Oregon. Claimant lived at an address on SE Cleveland Avenue in Bend. However, on December 11, 2020, they updated their address of record with the Department to an address on SW McKinley Avenue in Bend,¹ which may have been where claimant arranged to pick up their mail.

(5) Claimant suffered from substance abuse issues and housing instability. At some point after February 2020, they were evicted from one of the addresses at which they lived. These issues interfered with claimant's receipt of mail. In or around 2022, claimant "lost stable income & housing." EAB Exhibit 2 at 3.

(6) On February 14, 2023, claimant filed late requests for hearing on decision # 71317 and the October 6, 2020, administrative decision.

(7) Order No. 23-UI-229453, mailed to claimant on July 5, 2023, 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. 23-UI-229453 at 2. Order No. 23-UI-229453 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 July 25, 2023."

(8) Order No. 23-UI-229450, mailed to claimant on July 5, 2023, 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. 23-UI-229450 at 2. Order No. 23-UI-229450 also

¹ EAB has taken notice of this fact, which is contained in Employment Department records. OAR 471-041-0090(1). 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 noticed fact will remain in the record.

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 July 25, 2023.”

(9) The Office of Administrative Hearings (OAH) mailed Orders No. 23-UI-229453 and 23-UI-229450 to the SW McKinley Avenue address. The U.S. Postal Service returned the orders to OAH as undeliverable.

(10) Claimant did not receive Orders No. 23-UI-229453 and 23-UI-229450. At the time, they “had no fixed address or mail access” and was “[s]urviving day to day.” EAB Exhibit 2 at 3.

(11) In October 2024, claimant secured housing in Boise, Idaho at a “sober living” house and “focused on recovery from substance abuse.” EAB Exhibit 2 at 3. On April 14, 2025, claimant emailed OAH, asking about the status of decision # 71317 and the October 6, 2020, administrative decision. On April 16, 2025, an OAH representative emailed claimant back, attaching copies of Orders No. 23-UI-229453 and 23-UI-229450, and advised that to proceed with their appeals of decision # 71317 and the October 6, 2020, administrative decision, claimant needed to file applications for review of Orders No. 23-UI-229453 and 23-UI-229450 with EAB.

(12) On April 20, 2025, claimant filed applications for review of Orders No. 23-UI-229453 and 23-UI-229450 with EAB.

CONCLUSIONS AND REASONS: Claimant’s requests for reconsideration are allowed. On reconsideration, EAB Decisions 2025-EAB-0241 and 2025-EAB-0240 are reversed, and claimant’s late applications for review of Orders No. 23-UI-229453 and 23-UI-229450 are allowed. Orders No. 23-UI-229453 and 23-UI-229450 are reversed, and these matters remanded for hearings to determine whether claimant’s late requests for hearing on decision # 71317 and the October 6, 2020, administrative decision should be allowed and, if so, the merits of those decisions.

Reconsideration. ORS 657.290(3) authorizes the Employment Appeals Board to reconsider any previous decision of the Employment Appeals Board, including “the making of a new decision to the extent necessary and appropriate for the correction of previous error of fact or law.” The request is subject to dismissal unless it includes a statement that a copy was provided to the other parties, and is filed on or before the 20th day after the decision sought to be reconsidered was mailed. OAR 471-041-0145(2) (May 13, 2019).

EAB dismissed claimant’s late applications for review without prejudice and subject to claimant filing timely requests for reconsideration within 20 days after EAB’s dismissal decision was issued. Claimant filed requests for reconsideration consistent with the requirements set forth in OAR 471-041-0145. The requests for reconsideration are, therefore, allowed.

Late Applications for Review. 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 ended. 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. 23-UI-229453 and 23-UI-229450 were due by July 25, 2023. Because claimant did not file their applications for review until April 20, 2025, the applications for review were late.

Claimant established good cause to extend the deadline to file the applications for review. Claimant had longstanding issues with substance abuse and housing instability, and following February 2020, was evicted from one of the places at which they lived. Beginning in or around 2022, claimant “lost stable income & housing.” EAB Exhibit 2 at 3. After claimant’s loss of stable housing, Orders No. 23-UI-229453 and 23-UI-229450 were mailed to the SW McKinley Avenue address. The orders were returned as undeliverable and claimant did not receive them. Claimant’s failure to receive Orders No. 23-UI-229453 and 23-UI-229450 were circumstances beyond their reasonable control that prevented a timely filing of the applications for review. Those circumstances ended on April 16, 2025, when an OAH representative emailed copies of Orders No. 23-UI-229453 and 23-UI-229450 to claimant.

Thus, claimant established good cause to extend the deadline to file applications for review of Orders No. 23-UI-229453 and 23-UI-229450 to April 16, 2025. Claimant filed their applications for review on April 20, 2025, within a seven-day “reasonable time.” Accordingly, claimant’s late applications for review are allowed.

Late Requests for Hearing. 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. Under OAR 471-040-0010(1)(b)(A), “good cause” does not include failure to receive a document due to not notifying the Department or OAH of an updated address while the person is claiming benefits or if the person knows, or reasonably should know, of a pending appeal.

The requests for hearing on decision # 71317 and the October 6, 2020, administrative decision were due by October 22, 2020, and October 26, 2020, respectively. Because claimant did not file their requests for hearing on the decisions until February 14, 2023, the requests were late.

Claimant lived at an address in Eugene, Oregon from February 2020 until October 2020. EAB Exhibit 2 at 4. However, information suggests that during that time claimant suffered from substance abuse issues and housing instability, which interfered with their receipt of their mail. Claimant was evicted from one of the places at which they lived, possibly the Eugene address. Claimant moved to Bend, Oregon in November 2020. Though claimant lived at that time at an address on SE Cleveland Avenue in Bend, they updated their address with the Department to SW McKinley Avenue in Bend, perhaps because that was where claimant arranged to pick up their mail. The administrative decisions in question were mailed in early October 2020 to the Eugene address. To any extent claimant did not receive them because claimant failed to notify the Department of their updated address, it does not appear that OAR 471-040-

0010(1)(b)(A) would bar good cause to extend the filing deadline, as claimant was not claiming benefits at the time the administrative decisions were issued and does not appear to have had a pending appeal at the time.²

Based on the circumstances described above, it is possible that claimant failed to file timely hearing requests due to factors beyond their reasonable control. However, further information is necessary to determine whether claimant had good cause for filing the late requests for hearing and, if so, whether they filed the requests within a reasonable time.

On remand, the ALJ should inquire as to whether claimant ever received decision # 71317 and the October 6, 2020, administrative decision, as well as whether and when, during the October 2020 timeframe, claimant was homeless or otherwise lacked regular access to their mail. The ALJ should inquire as to when claimant learned of the existence of decision # 71317 and the October 6, 2020, administrative decision and their right to appeal those decisions. Further, the ALJ should ask questions to develop what caused claimant to file their late requests for hearing on February 14, 2023, as opposed to some earlier date. To this end, the ALJ should inquire whether and to what extent claimant's substance abuse issues and housing instability, particularly their loss of "stable income & housing" in 2022, may have hindered claimant's ability to file hearing requests. If the record on remand shows that claimant's late requests for hearing on decision # 71317 and the October 6, 2020, administrative decision should be allowed, the ALJ should proceed to the merits of those decisions.

DECISION: Claimant's requests for reconsideration are allowed. On reconsideration, EAB Decisions 2025-EAB-0241 and 2025-EAB-0240 are reversed, and the applications for review filed April 20, 2025, are allowed. Orders No. 23-UI-229453 and 23-UI-229450 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: June 20, 2025

NOTE: The failure of any party to appear at the hearings on remand will not reinstate Orders No. 23-UI-229453 and 23-UI-229450 or return these matters to EAB. Only timely applications for review of the orders mailed to the parties after the remand hearings will return these matters to EAB.

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² Department records show that claimant claimed benefits continuously from March 22, 2020, through June 20, 2020 (weeks 13-20 through 25-20) and then from June 28, 2020, through August 8, 2020 (weeks 27-20 through 32-20). Claimant therefore was not claiming benefits during the October 2020 timeframe. EAB has taken notice of these facts, which are contained in Employment Department records. OAR 471-041-0090(1). 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 noticed facts will remain in the record.



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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