

**EMPLOYMENT APPEALS BOARD DECISION**  
**2025-EAB-0249**

*Reversed*  
*Late Request for Hearing Allowed*  
*Merits Hearing Required*

**PROCEDURAL HISTORY:** On January 3, 2023, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant failed to complete a reemployment and eligibility assessment and therefore was ineligible for benefits from December 11 through 17, 2022 (week 50-22) and until the reason for the denial ended (decision # 120043). On January 23, 2023, decision # 120043 became final without claimant having filed a request for hearing. On June 27, 2023, claimant filed a late request for hearing. ALJ Kangas considered the request, and on November 22, 2023, issued Order No. 23-UI-241878, dismissing the request as late, subject to claimant's right to renew the request by responding to an appellant questionnaire by December 6, 2023. On December 4, 2023, claimant filed a timely appellant questionnaire response.

On February 28, 2024, the Office of Administrative Hearings (OAH) mailed a letter stating that Order No. 23-UI-241878 was vacated and that a hearing would be scheduled to determine whether to allow claimant's late request for hearing and, if so, the merits of decision # 120043. On March 31, 2025, ALJ Micheletti conducted a hearing at which the Department failed to appear, and on April 8, 2025, issued Order No. 25-UI-288875, re-dismissing claimant's request for hearing as late without good cause and leaving decision # 120043 undisturbed. On April 25, 2025, claimant filed an application for review of Order No. 25-UI-288875 with the Employment Appeals Board (EAB).

**WRITTEN ARGUMENT:** EAB considered claimant's argument in reaching this decision.

**FINDINGS OF FACT:** (1) Decision # 120043, mailed to claimant's address of record on January 3, 2023, 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 January 23, 2023." Exhibit 1 at 2.

(2) Claimant received decision # 120043 shortly after it was mailed. Claimant had returned to work and did not disagree with the decision's conclusion that she was ineligible for benefits for the week of December 11 through 17, 2022 (week 50-22). Claimant spoke with a department representative regarding the decision and was told "not to worry about it" since she had returned to work and was not

seeking benefits at that time. Audio Record at 7:25. Claimant therefore did not file a request for hearing by the January 23, 2023, deadline.

(3) At some point between May 28 and 31, 2023, claimant filed a reopened claim for benefits and thereafter filed continuing claims for the next three benefit weeks of May 21, 2023, through June 17, 2023 (weeks 21-23 through 24-23).

(4) On May 31, June 6, June 13, and June 21, 2023, the Department mailed letters to claimant stating that her claims for weeks 21-23 through 24-23 would not be paid because of “an Administrative Decision that denied benefits until you have completed your required Reemployment and Eligibility Assessment (REA).” Exhibit 2 at 6-8. The letters also gave instructions on how to complete the REA to end the period of ineligibility, but did not state that claimant had the right to file a late request for hearing on the underlying administrative decision, decision # 120043. Following the receipt of one or more of these letters, claimant contacted the Department seeking further information about payment of these claims.

(5) On June 26, 2023, claimant completed the REA. On June 27, 2023, claimant again wrote to the Department seeking payment of the claims because the REA had been completed.

(6) On June 28, 2023, a Department representative replied to claimant, explaining that she had the right to file a late request for hearing on decision # 120043, and would have to do so to seek payment of benefits for weeks 21-23 through 24-23. That day, claimant replied that she wanted to file the late request for hearing, and the Department considered her initial June 27, 2023, message to be a late request for hearing on decision # 120043.

**CONCLUSIONS AND REASONS:** Claimant’s late request for hearing is allowed and a hearing on the merits of decision # 120043 is required.

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 # 120043 was due by January 23, 2023. Because claimant filed her request for hearing on June 27, 2023, the request was late.

Claimant received decision # 120043 shortly after it was mailed. The record shows that claimant did not understand the decision’s implications insofar as it imposed an indefinite period of ineligibility, rather than applying only to week 50-22. However, because claimant did not fully understand the implications of the decision, she sought assistance by contacting the Department, and it can reasonably be inferred that she did so before the January 23, 2023, appeal deadline. Claimant told the representative that she had returned to work, and therefore was not seeking benefits for week 50-22 and would not be claiming benefits for the foreseeable future. Claimant testified that the representative told her “not to worry about it,” and claimant therefore did not file a request for hearing at that time. Audio Record at 7:25. Claimant

realized months later, after filing a reopened claim and completing the REA, that decision # 120043 continued to impose a period of ineligibility, but was unaware until June 28, 2023, that she could file a late request for hearing.

Claimant failed to file a request for hearing by the January 23, 2023, deadline due to her mistaken belief that this would not affect her eligibility for future benefits. Because this mistake was based, in part, on misinformation provided when claimant sought assistance from the Department in understanding the implications of decision # 120043, it was an excusable mistake. Therefore, claimant has shown good cause to extend the filing deadline.

In late May 2023, claimant filed a reopened claim and was denied payment for four consecutive weeks of benefits based on decision # 120043. From May 31 through June 21, 2023, the Department mailed claimant four letters explaining the reason for nonpayment of benefits, and that claimant could end the period of ineligibility by completing the REA, which claimant completed on June 26, 2023. On June 27, 2023, claimant wrote to the Department requesting payment for the four benefit weeks following the reopening of her claim, and the reply she received on June 28, 2023, stated that claimant had to file a late request for hearing on decision # 120043 in order to pursue payment of those benefits.

It can reasonably be inferred that claimant was unaware that she could file a late request for hearing on decision # 120043 until June 28, 2023, as the decision itself and the four letters explaining the nonpayment of benefits did not explain this right. Therefore, the factor that prevented timely filing of the request for hearing continued until June 28, 2023. The Department treated claimant's June 27, 2023, message as a late request for hearing, and as such, it was filed within a "reasonable time" after the factors that prevented timely filing ended. Accordingly, claimant's late request for hearing is allowed, and this matter is remanded for a hearing on the merits of decision # 120043.

**DECISION:** Order No. 25-UI-288875 is set aside, and this matter remanded for further proceedings consistent with this order.

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

**DATE of Service:** June 2, 2025

**NOTE:** The failure of any party to appear at the hearing on remand will not reinstate Order No. 25-UI-288875 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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