

**EMPLOYMENT APPEALS BOARD DECISION**  
**2025-EAB-0268**

*Reversed*  
*Late Requests for Hearing Allowed*  
*Merits Hearings Required*

**PROCEDURAL HISTORY:** On July 6, 2022, the Oregon Employment Department (the Department) served an Amended Notice of Determination for Pandemic Unemployment Assistance (PUA) concluding that claimant was not eligible for PUA benefits effective December 6, 2020. On July 13, 2022, the Department served notice of an administrative decision based in part on the July 6, 2022, PUA determination, concluding that claimant willfully made a misrepresentation and failed to report a material fact to obtain benefits, and assessing an overpayment of \$6,765 in PUA and \$9,000 in Federal Pandemic Unemployment Compensation (FPUC) benefits that claimant was required to repay, and a \$2,364.75 monetary penalty. On July 26, 2022, and August 2, 2022, the July 6, 2022, PUA determination and July 13, 2022, overpayment decision, respectively, became final without claimant having filed a request for hearing. On March 25, 2025, claimant filed a late request for hearing on each decision. ALJ Kangas considered the requests, and on April 15, 2025, issued Orders No. 25-UI-289590 and 25-UI-289563, dismissing the requests as late, subject to claimant's right to renew the requests by responding to an appellant questionnaire by April 29, 2025. On May 5, 2025, claimant filed late appellant questionnaire responses and timely applications for review of Orders No. 25-UI-289590 and 25-UI-289563 with the Employment Appeals Board (EAB).

EAB combined its review of Orders No. 25-UI-289590 and 25-UI-289563 under OAR 471-041-0095 (October 29, 2006). For case-tracking purposes, this decision is being issued in duplicate (EAB Decisions 2025-EAB-0269 and 2025-EAB-0268).

**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) On March 9, 2021, claimant filed an initial claim for PUA benefits. Claimant last filed a weekly claim for PUA benefits on August 19, 2021. As of the date of this decision, claimant has not claimed any type of unemployment insurance benefits in Oregon since August 19, 2021. Claimant had no appeal pending concerning an unemployment insurance claim in 2021 or 2022.<sup>1</sup>
- (2) At some point between August 20, 2021, and July 5, 2022, claimant moved from Eugene, Oregon to Phoenix, Arizona. Claimant did not update his address with the Department, and claimant's address of record with the Department therefore remained his former Eugene address through at least July 13, 2022.
- (3) On July 6, 2022, the Department mailed the July 6, 2022, PUA determination to claimant's address of record on file with the Department. The PUA determination stated, "You have the right to appeal this decision if you do not believe it is correct. Your request for appeal must be received by July 26, 2022." Order No. 25-UI-289590 Exhibit 1 at 2. Claimant did not receive the July 6, 2022, PUA determination.
- (4) On July 13, 2022, the Department mailed the July 13, 2022, overpayment decision to claimant's address of record on file with the Department. This overpayment decision stated, "See enclosed form for appeal rights. Any appeal from this decision must be filed on or before August 2, 2022, to be timely." Order No. 25-UI-289563 Exhibit 1 at 1. The July 13, 2022, overpayment decision was returned to the Department as undeliverable.
- (5) At some point after the July 13, 2022, overpayment decision became final, claimant began receiving notices of garnishment regarding recovery of the overpayment.
- (6) On March 25, 2025, claimant telephoned the Department to inquire about the notices of garnishment. A Department representative filed late requests for hearing on the July 6, 2022, PUA determination and July 13, 2022, overpayment decision on claimant's behalf, and noted in claimant's file:

Claimant phoned BPC regarding fraud decision. States he wants to know why. . . it was considered fraud. Read claimant decision and requested copy emailed to him at [claimant's email address]. Claimant states never received copy of decision as he had moved back to Arizona in late 2021 or mid 2022 and didn't know he even had an OP until he started getting notices of garnishments (Fraud decision was returned to OED as undeliverable). Call got disconnected, phoned claimant back to file an appeal. Created appeal for both the benefit issue L7-V96N-KL93 and the OP Benefit issue: L7-V96N-KLF6. Per request from BPC staff Kris M a copy of Administrative Decision issued on 7/13/22 was emailed to claimant on 3/25/25 to [claimant's email address].<sup>2</sup>

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<sup>1</sup> 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 fact(s) will remain in the record.

<sup>2</sup> 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 fact(s) will remain in the record.

**CONCLUSIONS AND REASONS:** Claimant's late requests for hearing are allowed and these matters remanded for hearings on the merits of the July 6, 2022, PUA determination and July 13, 2022, overpayment decision.

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 the July 6, 2022, PUA determination and July 13, 2022, overpayment decision were due by July 26, 2022, and August 2, 2022, respectively. Claimant filed his requests for hearing on March 25, 2025, and the requests were therefore late.

On March 25, 2025, claimant told a Department representative that he had never received the July 13, 2022, overpayment decision because he had moved to Arizona "in late 2021 or mid 2022 and didn't know he even had an [overpayment] until he started getting notices of garnishments." This is consistent with the Department's records showing that the July 13, 2022, overpayment decision was returned as undeliverable. Claimant did not directly address receipt of the July 6, 2022, PUA determination. However, the July 6, 2022, PUA determination was mailed to the same address as the July 13, 2022, overpayment decision that was returned as undeliverable, and it is reasonable to infer from this that claimant failed to receive both decisions because he no longer resided at the address to which they were mailed. This inference is further supported by claimant's lack of familiarity with the circumstances leading to the overpayment decision during the March 25, 2025, call with the Department.

More likely than not, the failure to receive both administrative decisions was the result of claimant moving to Arizona and not updating his address with the Department, which prevented him from timely filing requests for hearing. However, the record shows that claimant moved at a time when he was not claiming unemployment insurance benefits from Oregon and did not have a pending appeal. Therefore, OAR 471-040-0010(1)(b)(A) does not preclude a finding of good cause, and claimant was prevented from filing timely requests for hearing on the administrative decisions due to factors beyond his reasonable control. Accordingly, good cause has been shown to extend the filing deadlines.

Although claimant received notices of garnishment related to the overpayment at some point between August 2, 2022, when the July 13, 2022, overpayment decision became final, and March 25, 2025, when he called the Department about the garnishment notices, these notices alone were insufficient to advise claimant of the existence and substance of the administrative decisions and his right to appeal them. Therefore, the factors that prevented timely filing did not end until March 25, 2025, when claimant received copies of the administrative decisions by email and was told of his right to file late requests for hearing on them. The late requests for hearing were filed the same day, and were therefore filed within a "reasonable time." Accordingly, claimant's late requests for hearing on the July 6, 2022, PUA

determination and July 13, 2022, overpayment decision are allowed, and these matters remanded for hearings on the merits of those decisions.

**DECISION:** Orders No. 25-UI-289590 and 25-UI-289563 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 9, 2025

**NOTE:** The failure of any party to appear at the hearing on remand will not reinstate Orders No. 25-UI-289590 or 25-UI-289563 or return these matters to EAB. Only timely applications for review of the orders mailed to the parties after the remand hearing will return those matters 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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