

EMPLOYMENT APPEALS BOARD DECISION
2025-EAB-0357

Affirmed
Late Requests for Hearing Dismissed

PROCEDURAL HISTORY: On August 6, 2021, the Oregon Employment Department (the Department) served a Notice of Determination for Pandemic Unemployment Assistance (PUA) concluding that claimant was not entitled to receive PUA benefits beginning December 27, 2020. On August 26, 2021, the August 6, 2021, PUA determination became final without claimant having filed a request for hearing. On August 25, 2022, the Department served notice of an administrative decision, based in part on the August 6, 2021, PUA determination, concluding that claimant received benefits to which they were not entitled and assessing an overpayment of \$2,870 in PUA benefits and \$4,200 in Federal Pandemic Unemployment Compensation (FPUC) benefits that claimant was required to repay to the Department (decision # 142123). On September 14, 2022, decision # 142123 became final without claimant having filed a request for hearing. On March 18, 2024, claimant filed late requests for hearing on the August 6, 2021, PUA determination and decision # 142123.

ALJ Kangas considered claimant's requests, and on May 6, 2024, issued Order No. 24-UI-253590, dismissing claimant's request for hearing on the August 6, 2021, PUA determination as late, subject to claimant's right to renew the request by responding to an appellant questionnaire by May 20, 2024. On May 28, 2024, ALJ Kangas issued Order No. 24-UI-255144, dismissing claimant's request for hearing on decision # 142123 as late, subject to claimant's right to renew the request by responding to an appellant questionnaire by June 11, 2024. On May 28, 2024, and June 17, 2024, respectively, Orders No. 24-UI-253590 and 24-UI-255144 became final without claimant having filed applications for review with the Employment Appeals Board (EAB).

On April 29, 2025, claimant filed a signed writing that the Office of Administrative Hearings (OAH) construed as a late response to the appellant questionnaire. On May 27, 2025, ALJ Kangas issued Orders No. 25-UI-293234 and 25-UI-293229, canceling Orders No. 24-UI-253590 and 24-UI-255144, respectively, finding that claimant had failed to file their appellant questionnaire response by the respective deadlines of May 20, 2024, and June 11, 2024, re-dismissing claimant's requests for hearing as late without showings of good cause, and leaving the August 6, 2021, PUA determination and decision # 142123 undisturbed. On June 10, 2025, claimant filed timely applications for review of Orders No. 25-UI-293234 and 25-UI-293229 with EAB.

EAB combined its review of Orders No. 25-UI-293234 and 25-UI-293229 under OAR 471-041-0095 (October 29, 2006). For case-tracking purposes, this decision is being issued in duplicate (EAB Decisions 2025-EAB-0358 and 2025-EAB-0357).

EVIDENTIARY MATTER: Claimant's appellant questionnaire response had not been filed as of the dates Orders No. 24-UI-253590 and 24-UI-255144 became final. The late questionnaire response was marked for identification as Exhibit 3 in each case but was not considered as evidence by the ALJ and, as such, is not evidence in the consolidated hearing record. Claimant did not show that factors or circumstances beyond claimant's reasonable control prevented them from filing the appellant questionnaire response prior to the orders becoming final. Accordingly, under ORS 657.275(2) and OAR 471-041-0090 (May 13, 2019), EAB did not consider the late appellant questionnaire response when reaching this decision.

WRITTEN ARGUMENT: Claimant's argument contained information that was not part of the hearing record and did not show that factors or circumstances beyond claimant's reasonable control prevented them from offering the information into the hearing record. Under ORS 657.275(2) and OAR 471-041-0090, EAB considered only information received into evidence in the hearing record. EAB considered any parts of claimant's argument that were based on the hearing record.

FINDINGS OF FACT: (1) The August 6, 2021, PUA determination, mailed to claimant's address on file with the Department on August 6, 2021, 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 August 26, 2021." Order No. 25-UI-293234, Exhibit 1 at 2.

(2) Decision # 142123, mailed to claimant's address on file with the Department on August 25, 2022, 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 September 14, 2022, to be timely." Order No. 25-UI-293229, Exhibit 1 at 2.

(3) On March 18, 2024, claimant filed requests for hearing on the August 6, 2021, PUA determination and decision # 142123.

CONCLUSIONS AND REASONS: Claimant's late requests for hearing are 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 requests for hearing on the August 6, 2021, PUA determination and decision # 142123 were due by August 26, 2021, and September 14, 2022, respectively. Claimant filed their requests for hearing on March 18, 2024, and the requests were therefore late.

Claimant was given the opportunity to explain what factors prevented timely filing by responding to an appellant questionnaire within fourteen days of the dates the orders dismissing the requests were mailed. Order No. 24-UI-253590 at 1; Order No. 24-UI-255144 at 1. However, claimant failed to respond by that deadline, filing a response only after the dismissal orders became final. Claimant did not explain why the information requested in the questionnaire could not have been provided while the matters were within the jurisdiction of the Office of Administrative Hearings (OAH). Therefore, as explained above, EAB is prevented by rule from considering the questionnaire response because it is new evidence that was not considered by the ALJ. The record otherwise fails to show why the requests for hearing were filed late. Accordingly, good cause does not exist to extend the deadline for timely filing of the requests for hearing.

For these reasons, claimant's late requests for hearing the August 6, 2021, PUA determination and decision # 142123 are dismissed.

DECISION: Orders No. 25-UI-293234 and 25-UI-293229 are affirmed.

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

DATE of Service: June 27, 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.

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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، وإذا كنت لا توافق على هذا القرار، يمكنك رفع شكوى للمراجعة القانونية بمحكمة الاستئناف بأوريغون وذلك بإتباع الإرشادات المدرجة أسفل القرار.

Farsi

توجه - این حکم بر مزایای بیکاری شما تأثیر 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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