

EMPLOYMENT APPEALS BOARD DECISION
2025-EAB-0375

Affirmed
Request to Reopen Denied

PROCEDURAL HISTORY: On September 15, 2022, 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 \$3,280 in Pandemic Unemployment Assistance (PUA) and \$4,800 in Federal Pandemic Unemployment Compensation (FPUC) that claimant was required to repay. On September 23, 2022, claimant filed a timely request for hearing that the Office of Administrative Hearings (OAH) did not initially receive. On March 31, 2025, OAH received the hearing request.

On April 14, 2025, OAH served notice of a hearing on the September 15, 2022, administrative decision scheduled for May 1, 2025. On May 1, 2025, claimant failed to appear for the hearing, and on May 6, 2025, ALJ Monroe issued Order No. 25-UI-291421, dismissing claimant's hearing request based on their failure to appear. On May 13, 2025, claimant filed a request to reopen the May 1, 2025, hearing. ALJ Kangas considered claimant's request to reopen, and on June 5, 2025, issued Order No. 25-UI-294214, denying the request and leaving Order No. 25-UI-291421 undisturbed. On June 18, 2025, claimant filed an application for review of Order No. 25-UI-294214 with EAB.

FINDINGS OF FACT: (1) At some point after they requested a hearing on the September 15, 2022, administrative decision, claimant spoke to a representative of the Department or OAH and understood from the discussion that the hearing would be by telephone, but assumed OAH would call them at the scheduled time of the hearing. Exhibit 5 at 2.

(2) On April 14, 2025, OAH mailed notice of a telephone hearing scheduled for May 1, 2025, at 10:45 a.m. to claimant's address on file. The notice stated, "At the time of the hearing, you must call 1-877-622-4041. Using the telephone keypad, enter the access code **8833413** followed by the '#' key. . . If you requested the hearing and you do not call **1-877-622-4041** at the time set for your hearing, the hearing will be dismissed." Exhibit 3 at 1 (emphases in original).

(3) Claimant received the notice of hearing. When they did so, they saw the time and date of the hearing. However, they did not read the notice carefully, and continued to mistakenly believe that OAH would call them at the time of the hearing.

(4) On May 1, 2025, claimant failed to appear for the hearing. On that date at 10:45 a.m., claimant waited by their phone expecting a call from OAH. After some time passed, claimant looked over the hearing notice, read it more carefully, and realized they were required to call into the hearing. Exhibit 5 at 2.

CONCLUSIONS AND REASONS: Claimant's request to reopen the May 1, 2025, hearing is denied.

ORS 657.270(5) states that any party who failed to appear at a hearing may request to reopen the hearing, and the request will be allowed if it was filed within 20 days of the date the hearing decision was issued and shows good cause for failing to appear. "Good cause" exists when the requesting party's failure to appear at the hearing arose from an excusable mistake or from factors beyond the party's reasonable control. OAR 471-040-0040(2) (February 10, 2012). The party requesting reopening must state the reason(s) for missing the hearing in a written statement, which the Office of Administrative Hearings (OAH) shall consider in determining whether good cause exists for failing to appear at the hearing. OAR 471-040-0040(3).

Claimant's request to reopen was filed within 20 days of the date Order No. 25-UI-291421 was issued, and contained a written statement explaining why they missed the hearing. The request therefore met the threshold requirements for consideration.

Claimant failed to appear at the May 1, 2025, hearing because they did not understand that they were required to call and provide an access code at the time of the hearing, instead believing that the ALJ would call them. The procedure for participating in the hearing, including an advisement that if claimant failed to call at the appointed time their request for hearing would be dismissed, was stated in the notice of hearing.

In their reopen request, claimant acknowledged their "mistake for not reading [the notice of hearing] more carefully," stating that they "just notice[d] the time and date for the call." Exhibit 5 at 2. Claimant stated that they thought they "would get a call from" the ALJ and "miss understood [*sic*] that [they] were supposed to call [OAH] at 10:45." Exhibit 5 at 2. Claimant explained that at 10:45 a.m. on May 1, 2025, they were "by [their] phone waiting for the call," and "[a]fter 10:45 came and went [they] look[ed] over the paper work and realize[d] [they were] suppose[ed] to call [OAH]." Exhibit 5 at 2.

Claimant was not prevented from attending the hearing by a factor beyond their reasonable control, as carefully reading the notice of hearing was within their control. Furthermore, while claimant failed to attend the hearing due to a mistake, it was not an "excusable mistake" within the meaning of the administrative rules because it did not, for example, raise a due process issue, and was not the result of inadequate notice, reasonable reliance on another, or the inability to follow directions despite substantial efforts to comply. Accordingly, claimant has not shown good cause for failing to appear at the hearing, and their request to reopen the May 1, 2025, hearing therefore is denied.

DECISION: Order No. 25-UI-294214 is affirmed.

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

DATE of Service: July 7, 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، 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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Email: appealsboard@employ.oregon.gov

Website: www.Oregon.gov/employ/pages/employment-appeals-board.aspx

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