

EMPLOYMENT APPEALS BOARD DECISION
2025-EAB-0422

Order No. 24-UI-251042 ~ Late Application for Review Allowed
Orders No. 24-UI-251042, 25-UI-297116, and 25-UI-297114 Affirmed
Late Requests for Hearing Dismissed

PROCEDURAL HISTORY: On November 22, 2023, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant failed to provide information to verify their identity and was ineligible for benefits for the weeks of November 5 through 18, 2023 (weeks 45-23 through 46-23) and until the reason for the denial ended (decision # 123845). On December 6, 2023, the Department served notice of an administrative decision concluding that claimant was not able to work from September 10 through December 2, 2023 (weeks 37-23 through 48-23) and was ineligible for benefits for those weeks and until the reason for the denial ended (decision # 84247). Also on December 6, 2023, the Department served notice of an administrative decision concluding that claimant was discharged for a disqualifying act and disqualified from receiving benefits effective September 3, 2023 (decision # 75627). On December 12, 2023, decision # 123845 became final without claimant having filed a request for hearing. On December 26, 2023, decisions # 84247 and 75627 became final without claimant having filed requests for hearing.

On February 6, 2024, claimant filed late requests for hearing on decisions # 123845, 84247, and 75627. ALJ Kangas considered the requests, and on February 20, 2024 issued Orders No. 24-UI-248355, 24-UI-297114, and 24-UI-251042, dismissing the requests as late, subject to claimant's right to renew the requests by responding to an appellant questionnaire by March 5, 2024. On February 23, 2024, claimant filed a timely appellant questionnaire response. ALJ Scott considered the response regarding decision # 75627, and on March 27, 2024 issued Order No. 24-UI-251042, re-dismissing claimant's request for hearing on decision # 75627 as late without good cause. On April 16, 2024, Order No. 24-UI-251042 became final without claimant having filed an application for review with the Employment Appeals Board (EAB). ALJ Kangas considered the appellant questionnaire response regarding decisions # 123845 and 84247, and on July 9, 2025 issued Orders No. 25-UI-297116 and 25-UI-297114, re-dismissing claimant's requests for hearing on decisions # 123845 and 84247 as late without good cause.

On July 14, 2025, claimant filed a late application for review of Order No. 24-UI-251042 and timely applications for review of Orders No. 25-UI-297116 and 25-UI-297114 with EAB. EAB combined its review of Orders No. 24-UI-251042, 25-UI-297116, and 25-UI-297114 under OAR 471-041-0095

(October 29, 2006). For case-tracking purposes, this decision is being issued in triplicate (EAB Decisions 2025-EAB-0421, 2025-EAB-0422, and 2025-EAB-0423).

WRITTEN ARGUMENT: The written statements included with claimant's applications for review contained new information about why the requests for hearing were late. However, the statements did not show that factors or circumstances beyond claimant's reasonable control prevented claimant from offering the information into the hearing record before the ALJ at the Office of Administrative Hearings (OAH) in his responses to the appellant questionnaire. Under ORS 657.275(2) and OAR 471-041-0090 (May 13, 2019), EAB did not consider claimant's new information with respect to the late requests for hearing.

Claimant's written statements explained why the application for review of Order No. 24-UI-251042 was filed late, and EAB considered the statements to that extent under OAR 471-041-0090(1). The statements have been marked and admitted as EAB Exhibit 1. Any party that objects to EAB admitting EAB Exhibit 1 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) Decision # 123845, mailed to claimant's address on file with the Department on November 22, 2023, stated, "You have the right to appeal this decision if you do not believe it is correct. Your appeal must be received no later than December 12, 2023." Order No. 25-UI-297116 Exhibit 1 at 2.

(2) Decision # 84247, mailed to claimant's address on file with the Department on December 6, 2023, stated, "You have the right to appeal this decision if you do not believe it is correct. Your appeal must be received no later than December 26, 2023." Order No. 25-UI-297114, Exhibit 1 at 2.

(3) Decision # 75627, mailed to claimant's address on file with the Department on December 6, 2023, stated, "You have the right to appeal this decision if you do not believe it is correct. Your appeal must be received no later than December 12, 2023." Order No. 24-UI-251042, Exhibit 1 at 2.

(4) On December 12, 2023, claimant spoke with a Department representative by telephone, who noted that they discussed decisions # 123845, 84247, and 75627, and "ways to appeal" those decisions. Order No. 25-UI-297116, Exhibit 2 at 3. The note did not suggest that claimant mentioned having failed to receive any of the three decisions.

(5) On February 6, 2024, claimant filed late requests for hearing on decisions # 123845, 84247, and 75627.

(6) On March 27, 2024, Order No. 24-UI-251042 was mailed to claimant's address of record on file with OAH. Order No. 24-UI-251042 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. 24-UI-251042 at 3. Order No. 24-UI-251042 also stated on its Certificate of Mailing, "Any appeal from this Order must be filed on or before April 6, 2024 to be timely."

(7) As of March 27, 2024, claimant was using his brother's address as his address of record with OAH because he had no other place to receive mail. Because of this arrangement, claimant failed to receive Order No. 24-UI-251042 when it was mailed, and he remained unaware of its issuance until shortly after July 9, 2025, when he received Orders No. 25-UI-297116 and 25-UI-297114. Claimant filed a late application for review of Order No. 24-UI-251042 on July 14, 2025.

CONCLUSIONS AND REASONS: Claimant's late application for review of Order No. 24-UI-251042 is allowed. Claimant's late requests for hearing on decisions # 123845, 84247, and 75627 are dismissed.

Late Application for Review of Order No. 24-UI-251042. 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 application for review of Order No. 24-UI-251042 was due by April 16, 2024. Claimant's application for review of that order was filed on July 14, 2025, and was therefore late. In the statements included with the late application for review, claimant wrote, "I have been homeless and in treatment and was not able to respond correctly." EAB Exhibit 1 at 1. Claimant further explained, "In the last 1 ½ years, the documents that were being sent were sent to my brother's address as I [had] no home to receive mail." EAB Exhibit 1 at 2. It is reasonable to infer from these statements that claimant did not receive Order No. 24-UI-251042 when it was mailed due to his living situation, and that this was a factor beyond his reasonable control that prevented timely filing. Good cause therefore exists to extend the filing deadline.

Moreover, although Orders No. 24-UI-251042, 25-UI-297116, and 25-UI-297114 were all issued based on a review of claimant's February 23, 2024 appellant questionnaire response, Orders No. 25-UI-297116 and 25-UI-297114 were not issued until July 9, 2025. It is reasonable to infer from the timing of claimant's applications for review that claimant first learned of Order No. 24-UI-251042 shortly after receiving the other two orders on or around July 9, 2025. Because claimant filed the late application for review of Order No. 24-UI-251042 less than seven days later, on July 14, 2025, it was filed within a "reasonable time" after the factor that prevented timely filing ended. Accordingly, claimant's late application for review of Order No. 24-UI-251042 is 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.

The request for hearing on decision # 123845 was due by December 12, 2023, and the requests on decisions # 84247 and 75627 were due by December 26, 2023. Claimant's requests for hearing on all three administrative decisions were filed on February 6, 2024, and were therefore late.

The Department's records show that claimant spoke with a representative by telephone on December 12, 2023. According to the representative's note, they discussed the issues involved in the three administrative decisions and claimant's right to appeal the decisions. The note did not suggest that claimant represented during the call that he had failed to receive any of the decisions in the mail. Had claimant filed requests for hearing on December 12, 2023 following that conversation, the requests would have been timely as to all three decisions.

Claimant did not rebut this evidence, or provide an explanation while the matter was pending at OAH as to why the requests for hearing were filed late. Claimant was given the opportunity to respond to appellant questionnaires to explain why the requests for hearing were filed late, but did not provide any relevant information in his response. *See* Order No. 25-UI-297116, Exhibit 3 at 2. Therefore, claimant failed to show he was prevented from timely filing the requests for hearing due to factors beyond his reasonable control or an excusable mistake. Accordingly, claimant failed to establish good cause to extend the filing deadlines, and the late requests for hearing on decisions # 123845, 84247, and 75627 are dismissed.

DECISION: Claimant's late application for review of Order No. 24-UI-251042 is allowed. Orders No. 24-UI-251042, 25-UI-297116, and 25-UI-297114 are affirmed.

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

DATE of Service: August 19, 2025

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 دستور العمل موجود در پایان آن، از دادگاه تجدید نظر اورگان درخواست تجدید نظر کنید.

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