

State of Oregon
Employment Appeals Board
875 Union St. N.E.
Salem, OR 97311

EMPLOYMENT APPEALS BOARD DECISION
2025-EAB-0444

Reversed
Request to Reopen Allowed
Merits Hearing Required

PROCEDURAL HISTORY: On February 20, 2024, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant willfully made a misrepresentation and failed to report a material fact to obtain benefits, and assessing a \$12,770 overpayment that claimant was required to repay to the Department, a \$3,831 monetary penalty, and a 52-week penalty disqualification from future benefits. Claimant filed a timely request for hearing. On December 31, 2024, notice was mailed to the parties that a hearing was scheduled for January 16, 2025. On January 16, 2025, claimant failed to appear for the hearing, and ALJ Fraser issued Order No. 25-UI-280043, dismissing claimant's request for hearing due to her failure to appear. On February 4, 2025, claimant filed a timely request to reopen the hearing. On July 1, 2025, ALJ Chiller conducted a hearing at which the employers failed to appear, and on July 2, 2025, issued Order No. 25-UI-296579, denying claimant's request to reopen and leaving Order No. 25-UI-280043 undisturbed. On July 22, 2025, claimant filed an application for review of Order No. 25-UI-296579 with the Employment Appeals Board (EAB).

WRITTEN ARGUMENT: EAB did not consider claimant's written argument because she did not state that she provided a copy of her argument to the employers as required by OAR 471-041-0080(2)(a) (May 13, 2019).

FINDINGS OF FACT: (1) On December 31, 2024, notice was mailed to claimant's address on file with the Office of Administrative Hearings (OAH) that a hearing was scheduled for January 16, 2025 at 8:15 a.m. The notice stated, "At the time of hearing, you must call 1-877-622-4041. . . 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 (emphasis in original).

(2) Claimant received the notice approximately one week prior to the January 16, 2025 hearing. Although claimant had been diagnosed with dyslexia, she read the notice of hearing and believed that she understood it, including the instructions on how to participate in the hearing. However, claimant misread the notice and believed that the ALJ would call her at the time of the hearing, rather than claimant having to call in. Because claimant was unaware that she did not read the notice accurately, she did not seek assistance in verifying the contents of the notice prior to the hearing.

(3) On January 16, 2025, claimant and her mother waited by the phone to be contacted to participate in the hearing. After approximately an hour, claimant asked her mother to review the notice and learned at that time that it stated claimant was supposed to have placed the call. Claimant then called OAH and was advised to file a request to reopen the hearing. Order No. 25-UI-280043, dismissing claimant’s request for hearing due to her failure to appear, was issued that day.

(4) On February 4, 2025, claimant filed a request to reopen the January 16, 2025 hearing, which included a written statement explaining that she missed the hearing due to misreading the instructions in the notice.

CONCLUSIONS AND REASONS: Claimant’s request to reopen the January 16, 2025 hearing is allowed, and a hearing on the merits of the February 20, 2024 administrative decision is required.

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 for hearing was filed within 20 days of the date Order No. 25-UI-280043 was issued, and included a written statement explaining why she missed the hearing. Therefore, the request met threshold requirements for consideration.

Claimant missed the hearing because she misread the instructions in the notice stating that she was required to call in, as opposed to waiting for the ALJ to call her. The order under review concluded that this did not constitute a factor beyond claimant’s reasonable control or an excusable mistake, despite it resulting from claimant’s dyslexia, because claimant should have consulted others prior to the hearing to “ensure that she fully understood the instructions.” Order No. 25-96579 at 4. The record does not support this conclusion.

Claimant testified that she was diagnosed with dyslexia during childhood and that it affects her ability to read by seeming to make words “move.” Audio Record at 36:00, 36:40. Claimant explained that in reading the notice she “got the words confused in [her] brain” and that this caused her to mistakenly

believe that a call would be placed to her at the time of the hearing. Audio Record at 37:00. Claimant testified that, in retrospect, she “should have asked [her] mom” to read the notice due to the potential for reading or comprehension errors attributable to dyslexia. Audio Record at 37:40. However, the record suggests that, prior to missing the hearing, claimant did not believe that precaution was necessary in this instance because she thought she had successfully read and understood the instructions in the notice.

In considering the totality of the circumstances, claimant’s mistaken belief that she would receive a call to participate in the hearing is excusable. Claimant misread the instructions in the notice of hearing due to dyslexia, which was a factor beyond her reasonable control. Moreover, while claimant was generally aware of the risk of misreading a document due to this condition, she did not seek assistance in reading the notice of hearing because she reasonably, but mistakenly, believed that she had successfully read it and understood the instructions. Accordingly, claimant missed the hearing due to an excusable mistake, and her request to reopen the January 16, 2025 hearing is therefore allowed. The matter is remanded for a hearing on the merits of the February 20, 2024 administrative decision.

DECISION: Order No. 25-UI-296579 is set aside, and this matter remanded for further proceedings consistent with this order.

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

DATE of Service: August 27, 2025

NOTE: The failure of any party to appear at the hearing on remand will not reinstate Order No. 25-UI-296579 or return this matter to EAB. Only a timely application for review of the order mailed to the parties after the remand hearing will return this matter to EAB.

Please help us improve our service by completing an online customer service survey. To complete the survey, please go to <https://www.surveymizmo.com/s3/5552642/EAB-Customer-Service-Survey>. If you are unable to complete the survey online and wish to have a paper copy of the survey, please contact our office.



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 ໄດ້ ໂດຍປະຕິບັດຕາມຄໍາແນະນໍາທີ່ບອກໄວ້ຢູ່ຕອນທ້າຍຂອງຄໍາຕັດສິນນີ້.

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.

Employment Appeals Board - 875 Union Street NE | Salem, OR 97311

Phone: (503) 378-2077 | 1-800-734-6949 | Fax: (503) 378-2129 | TDD: 711

Email: appealsboard@employ.oregon.gov

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

The Oregon Employment Department is an equal opportunity employer/program. Auxiliary aids and services are available upon request to individuals with disabilities. Language assistance is available to persons with limited English proficiency at no cost.

El Departamento de Empleo de Oregon es un programa que respeta la igualdad de oportunidades. Disponemos de servicios o ayudas auxiliares, formatos alternos y asistencia de idiomas para personas con discapacidades o conocimiento limitado del inglés, a pedido y sin costo.