

EMPLOYMENT APPEALS BOARD DECISION
2025-EAB-0459-R

Request for Reconsideration Allowed
EAB Decision 2025-EAB-0459 Reversed on Reconsideration
Late Application for Review Allowed
Order No. 22-UI-197579 reversed
Late Request for Hearing Allowed
Merits Hearing Required

PROCEDURAL HISTORY: On January 12, 2022, 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 \$9,531 overpayment of regular unemployment insurance (regular UI) benefits, a \$9,000 overpayment of Federal Pandemic Unemployment Compensation (FPUC) benefits, and a \$1,500 overpayment of Lost Wages Assistance (LWA) benefits, which claimant was required to repay, along with a \$5,559.30 monetary penalty and a 52-week penalty disqualification from future benefits. On February 1, 2022, the January 12, 2022 administrative decision became final without claimant having filed a request for hearing.

On March 8, 2022, claimant filed a late request for hearing on the January 12, 2022 administrative decision. ALJ Kangas considered claimant's request, and on July 6, 2022 issued Order No. 22-UI-197579, dismissing the request as late, subject to claimant's right to renew the request by responding to an appellant questionnaire by July 20, 2022. On July 26, 2022, Order No. 22-UI-197579 became final without claimant having responded to the appellant questionnaire or filed an application for review with the Employment Appeals Board (EAB). On July 28, 2025, claimant filed a late application for review of Order No. 22-UI-197579 with EAB.

On August 29, 2025, EAB issued EAB Decision 2025-EAB-0459, dismissing claimant's late application for review without prejudice, subject to their right to request reconsideration and provide additional evidence to EAB regarding the reasons for the late filing. On September 17, 2025, claimant filed a timely request for reconsideration of EAB Decision 2025-EAB-0459. This decision is made under EAB's authority from ORS 657.290(3).

EVIDENTIARY MATTER: EAB has considered additional evidence when reaching this decision under OAR 471-041-0090(1) (May 13, 2019). The additional evidence consists of claimant's request for reconsideration and attached medical documentation, has been marked as EAB Exhibit 2, 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) At some point prior to January 2022, claimant began suffering from "long COVID," a group of health problems that persisted after claimant was initially infected with COVID-19. The condition was disabling and caused claimant severe fatigue, chest pain, and shortness of breath. Claimant's chest pain was, at times, so severe that they could not lift their arm. EAB Exhibit 2 at 4. In January 2022, claimant's doctors documented claimant's long COVID condition. Claimant continued to suffer from the condition thereafter, and it later caused claimant to stop working completely.

(2) On January 12, 2022, the Department mailed the January 12, 2022 administrative decision to claimant's address of record on file with the Department, which was an address on Brookside Drive in Eugene, Oregon. The administrative decision stated, "Any appeal from this decision must be filed on or before February 1, 2022 to be timely." Exhibit 1 at 1.

(3) Claimant received the January 12, 2022 administrative decision shortly after it was mailed. However, claimant's "long COVID left [them] unable to manage legal paperwork and deadlines due to severe health limitations." EAB Exhibit 2 at 2. As a result of their health condition, claimant was not able to file a timely request for hearing on the January 12, 2022 administrative decision.

(4) On February 1, 2022, the January 12, 2022 administrative decision became final without claimant having filed a request for hearing. On March 8, 2022, claimant's health condition improved to some degree and claimant filed a late request for hearing on the January 12, 2022 administrative decision. Thereafter, claimant's health condition again worsened.

(5) On July 2, 2022, claimant moved from the Brookside Drive address to a new address. After they moved, claimant did not update their address with OAH or the Department because of their disabling long COVID health condition.

(6) On July 6, 2022, the Office of Administrative Hearings (OAH) mailed Order No. 22-UI-197579 to the address where claimant used to reside at Brookside Drive in Eugene. Order No. 22-UI-197579 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. 22-UI-197579 at 2. Order No. 22-UI-197579 also stated on its certificate of mailing, "Any party may appeal this Order by filing a Request for Review with the Employment Appeals Board no later than July 26, 2022."

(7) Because Order No. 22-UI-197579 was sent to claimant's former address on Brookside Drive in Eugene, it was returned by the U.S. Postal Service as undeliverable. As a result, claimant never received Order No. 22-UI-197579, and was not aware of its existence. On July 26, 2022, Order No. 22-UI-197579 became final without claimant having filed an application for review with EAB.

(8) At some point later in 2022, the Department began recovering the overpayment established by the January 12, 2022 administrative decision by withholding money from claimant's paychecks and offsetting the overpayment against other unemployment insurance benefits to which claimant was entitled. As claimant had no knowledge of Order No. 22-UI-197579, and the Department was recovering the overpayment, claimant believed their appeal rights were lost and the matter was closed.

(9) On July 28, 2025, claimant learned for the first time that Order No. 22-UI-197579 existed and that they still had the right to file an application for review of the order. On that date, claimant filed an application for review of Order No. 22-UI-197579 with EAB.

CONCLUSIONS AND REASONS: Claimant's request for reconsideration is allowed. Claimant's late application for review of Order No. 22-UI-197579 is allowed. Claimant's late request for hearing on the January 12, 2022 administrative decision is allowed. This matter is remanded for a hearing on the merits of the January 12, 2022 administrative decision.

Request for Reconsideration. ORS 657.290(3) permits the Employment Appeals Board to reconsider any past decision of the Employment Appeals Board, including "the making of a new decision to the extent necessary and appropriate for the correction of previous error of fact or law." The request will be dismissed unless it says that a copy of the request was given to the other parties, and unless it is filed within 20 days after the decision the party wants to be reconsidered was mailed. OAR 471-041-0145(2) (May 13, 2019).

EAB dismissed claimant's late application for review without prejudice, allowing them to file a request for reconsideration with additional evidence regarding the late filing. Claimant filed a request for reconsideration that met the requirements in OAR 471-041-0145. The request for reconsideration is therefore allowed.

Late Application for Review. 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 deadline to file an application for review of Order No. 22-UI-197579 was July 26, 2022. Because claimant did not file an application for review until July 28, 2025, the application for review was late.

Claimant established good cause to extend the deadline to file an application for review of Order No. 22-UI-197579 and filed within a seven-day reasonable time. A factor or circumstance beyond claimant's reasonable control prevented them from timely filing an application for review in that Order No. 22-UI-197579 was returned by the U.S. Postal Service as undeliverable and claimant did not receive the order or otherwise become aware of its existence. The fact that the order was not delivered to claimant was beyond claimant's reasonable control. This is so because although claimant did not update their address

with OAH or the Department when they moved, resulting in the order being mailed to claimant's old address, claimant was unable to update their address because of their disabling long COVID health condition. As such, claimant never became aware of the order and the factor or circumstance beyond claimant's reasonable control continued unabated for years, including after the Department began recovering the overpayment, given that claimant had no knowledge of Order No. 22-UI-197579, and believed their appeal rights were lost and the matter was closed.

However, the factor or circumstance beyond claimant's reasonable control that prevented a timely filing ended on July 28, 2025, because on that date, claimant learned for the first time that Order No. 22-UI-197579 existed and that they still had the right to file an application for review of the order. Claimant filed their late application for review on that date, and so within a seven-day reasonable time of when the circumstance beyond their reasonable control ended.

Accordingly, claimant established good cause to extend the deadline to file an application for review and filed within a reasonable time. The late application for review is therefore allowed.

Late Request for Hearing. ORS 657.269 states 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 states that the 20-day deadline may be extended a "reasonable time" upon a showing of "good cause." OAR 471-040-0010 (February 10, 2012) states 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 ended.

The deadline to file a request for hearing on the January 12, 2022 administrative decision was February 1, 2022. Because claimant did not file a request for hearing until March 8, 2022, the request for hearing was late.

Claimant established good cause to extend the deadline to file a request for hearing on the January 12, 2022 administrative decision, and filed within a seven-day reasonable time. The record shows that claimant received the administrative decision shortly after it was mailed and that at that time, claimant was suffering from their disabling long COVID health condition. Claimant's "long COVID left [them] unable to manage legal paperwork and deadlines due to severe health limitations." EAB Exhibit 2 at 2. As such, the available evidence supports the inference that the reason claimant did not file a request for hearing on the January 12, 2022 administrative decision by the February 1, 2022 deadline was because of their disabling long COVID health condition, and the facts of this decision have been found accordingly. Claimant's health condition was a factor beyond claimant's reasonable control that prevented them from filing in a timely manner. As claimant was able on March 8, 2022 to file a late request for hearing, the weight of the evidence supports that their health condition improved enough to permit them to complete the process of requesting a hearing on that date. Accordingly, the factor ended on that date, and claimant filed their hearing request the same day, and so within a seven-day reasonable time.

Thus, claimant established good cause to extend the deadline to file the request for hearing to March 8, 2022, and filed within a reasonable time. The late request for hearing is therefore allowed.

In sum, claimant's late application for review and late request for hearing are allowed. This matter is remanded for a hearing on the merits of the January 12, 2022 administrative decision.

DECISION: Claimant's request for reconsideration is allowed. On reconsideration, EAB Decision 2025-EAB-0459 is reversed as explained in this decision. Order No. 22-UI-197579 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: October 10, 2025

NOTE: The failure of any party to appear at the hearing on remand will not reinstate Order No. 22-UI-197579 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.

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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

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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

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