

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

**EMPLOYMENT APPEALS BOARD DECISION**  
**2025-EAB-0526**

*Reversed*  
*Late Requests for Hearing Allowed*  
*Merits Hearings Required*

**PROCEDURAL HISTORY:** On November 6, 2020, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant was not available for work during the weeks of March 22, 2020 through May 30, 2020 (weeks 14-20 through 22-20) and was therefore ineligible to receive unemployment insurance benefits for those weeks (decision # 83837). On November 30, 2020, decision # 83837 became final without claimant having filed a request for hearing. On March 1, 2022, the Department served notice of an administrative decision, based in part on decision # 83837, concluding that claimant received benefits to which he was not entitled and assessing an overpayment of \$5,993 in combined regular unemployment insurance (regular UI) benefits and federal Pandemic Unemployment Compensation (FPUC) benefits that claimant was required to repay to the Department (decision # 120012). On March 21, 2022, decision # 120012 became final without claimant having filed a request for hearing. On February 26, 2025, claimant filed late requests for hearing on decisions # 83837 and 120012.<sup>1</sup>

ALJ Kangas considered claimant's requests, and on March 24 and 25, 2025, issued Orders No. 25-UI-287136 and 25-UI-287215, dismissing the requests for hearing on decisions # 120012 and 83837, respectively, as late, subject to claimant's right to renew the requests by responding to appellant questionnaires by April 7, 2025 for decision # 120012, and by April 8, 2025 for decision # 83837. On March 28, 2025, claimant filed timely appellant questionnaire responses in both matters. On April 2, 2025, the Office of Administrative Hearings (OAH) mailed letters to the parties stating that Orders No. 25-UI-287215 and 25-UI-287136 were vacated and that hearings would be scheduled to determine

<sup>1</sup> Claimant's late requests for hearing were dated February 26, 2025, and stamped received by the Department on March 3, 2025, in an envelope that did not contain a postmark. Order No. 25-UI-302061, DR Exhibit 2 at 10. The filing date for a request for hearing filed by mail is the postmarked date affixed by the United States Postal Service or, in the absence of a postmarked date, the most probable date of mailing. OAR 471-040-0005(4)(b) (July 15, 2018). In applying this rule, the most probable date of mailing, and therefore the filing date, was February 26, 2025.

whether claimant's late requests for hearing should be allowed and, if so, the merits of decisions # 83837 and 120012.

On July 11, 2025, and continuing on August 25, 2025, ALJ Blam conducted hearings on both administrative decisions, and on September 2, 2025, issued Orders No. 25-UI-302061 and 25-UI-302059, re-dismissing claimant's requests for hearing on decisions # 83837 and 120012, respectively, as late without good cause. On September 5, 2025, claimant filed timely applications for review of Orders No. 25-UI-302061 and 25-UI-302059 with the Employment Appeals Board (EAB).

EAB combined its review of Orders No. 25-UI-302061 and 25-UI-302059 under OAR 471-041-0095 (October 29, 2006). For case-tracking purposes, this decision is being issued in duplicate (EAB Decisions 2025-EAB-0256 and 2025-EAB-0257).

**WRITTEN ARGUMENT:** EAB considered claimant's written argument in reaching this decision.

**FINDINGS OF FACT:** (1) Decision # 83837, mailed to claimant's address of record on file with the Department on November 6, 2020, stated, "You have the right to appeal this decision if you do not believe it is correct. Your request for appeal must be received no later than November 30, 2020." Order No. 25-UI-30061, DR Exhibit 1 at 2.

(2) Decision # 120012, mailed to claimant's address of record on file with the Department on March 1, 2022, stated, "[Y]ou have the right to appeal this decision. Any appeal from this decision must be filed on or before March 21, 2022 to be timely." Order No. 25-UI-302059, DR Exhibit 1 at 2.

(3) At the times the administrative decisions were mailed, claimant regularly received mail at the address to which they were sent. Claimant did not receive either administrative decision.

(4) At some point on or before June 1, 2022, claimant learned of the existence of the overpayment assessed in decision # 120012 through a tax refund being intercepted. On June 1, 2022, claimant filed a request to waive recovery of the overpayment, which was denied.

(5) Claimant receives services through the Oregon Department of Human Services (DHS) due to "Intellectual Disability and Autism Spectrum Disorder." Order No. 25-UI-30061, Exhibit 1 at 2. These conditions affect claimant's ability to understand some words. Claimant granted his father a general power of attorney prior to filing the unemployment insurance claim at issue, and it remains in effect as of the date of this decision.

(6) The Department's records show that claimant's first documented contacts following the issuance of decisions # 83837 and 120012 occurred through telephone calls on August 9, 10, and 16, 2022. August 25, 2025 8:15 a.m. Transcript at 7-8. According to the notes of those calls, Department representatives discussed the overpayment with claimant or his father on each occasion, and during the August 10 and 16, 2022 calls, discussed the possibilities of further waiver requests and appealing the denial of the June 1, 2022 request. Claimant's understanding of these conversations when they occurred was that the representatives had told him and his father that appeal of the overpayment was not possible, and that he could only continue to pursue waiving recovery of the overpayment.

(7) On February 11, 2025, claimant received a collection notice regarding the overpayment balance. Claimant searched the internet for advice regarding the overpayment, and came to believe that he had the right to request a hearing on the validity of the collection notice within 20 days of the notice. On February 26, 2025, claimant filed a request for hearing that the Department treated as late requests for hearing on decisions # 83837 and 120012.

**CONCLUSIONS AND REASONS:** Claimant's late requests for hearing on decisions # 83837 and 120012 are allowed, and hearings on the merits of those decisions are required.

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 requests for hearing on decisions # 83837 and 120012 were due by November 30, 2020, and March 21, 2022, respectively. Claimant's requests for hearing were filed on February 26, 2025, and were therefore late. The orders under review concluded that even if good cause existed to extend the filing deadlines, claimant did not file the late requests for hearing within a reasonable time after the factors that prevented timely filing ended. Order No. 25-UI-302061 at 4; Order No. 25-UI-302059 at 4. The record shows good cause to extend the filing deadlines, and does not support the conclusion that the late requests for hearing were not filed within a reasonable time.

Claimant testified that he did not receive decisions # 83837 and 120012 when they were mailed. July 11, 2025 Transcript at 14; August 25, 2025 8:15 a.m. Transcript at 16-17. Both decisions were mailed to the same address, and, at the times of mailing, claimant lived at the address or regularly received mail there. Claimant did not know why the decisions were not delivered. However, it can reasonably be inferred that claimant's failure to receive the decisions was the result of factors beyond his reasonable control, and good cause therefore exists to extend the filing deadline.

There is conflicting evidence regarding when claimant learned of the decisions, or at least of the overpayment resulting from the decisions. Claimant maintained that he and his father learned of the overpayment when claimant's tax refund was intercepted. Claimant gave varying testimony regarding when this occurred, initially testifying it was in July 2020, but later testifying that he spoke with a Department representative about collection notices in May 2021, and sent an electronic message asking about the tax refund intercept on July 20, 2021. July 11, 2025 Transcript at 16, 34-35; August 25, 2025 8:15 a.m. Transcript at 18. As decision # 120012, which assessed the overpayment, was not issued until March 1, 2022, claimant was likely mistaken about these dates. However, because the earliest a tax refund intercept to recover the overpayment at issue could have occurred was in March 2022, and claimant filed a waiver request on June 1, 2022, it is reasonable to infer that claimant learned of the overpayment within that timeframe.

A Department representative testified that the first documented contact with claimant or his father regarding either administrative decision, aside from the June 1, 2022 waiver request, occurred in August 2022. According to those notes, claimant and his father called on August 9, 2022 about "the overpayment and waivers," but the call disconnected prematurely. August 25, 2025 8:15 a.m. Transcript

at 7. They called the Department again on August 10, 2022, and discussed that the waiver request had been denied because claimant was considered at fault for the overpayment. The representative noted they had advised claimant and his father to “do a state waiver and file a late appeal for state. Then for federal they could file an appeal and set up [a payment plan].” August 25, 2025 8:15 a.m. Transcript at 7. The notes of that call further stated, “[Walked] claimant through online [where] to file both state waiver and appeal request as well as provide[d] an email to send waiver back to.” August 25, 2025 8:15 a.m. Transcript at 7-8. The notes of claimant’s third call, on August 16, 2022, stated, “Claimant advised to. . . submit appeal. Provided phone number for overpayment. Claimant has questions about how [repaying the overpayment] works.” August 25, 2025 8:15 a.m. Transcript at 8. The representative at hearing denied seeing anything in the notes about the “underlying decision[s]” having been discussed during these three calls, or at any other time. August 25, 2025 8:15 a.m. Transcript at 8. There were no other documented contacts related to this claim until November 13, 2024, when claimant called and “asked why he had an overpayment. . . and had questions about a garnishment,” per notes of that call. August 25, 2025 8:15 a.m. Transcript at 6.

Claimant repeatedly testified regarding these documented contacts that the representatives he and his father spoke with told them they “can’t appeal,” and that the representatives “wouldn’t let us appeal” and would not explain “the reason why,” while only recommending that they pursue waivers. August 25, 2025 8:15 a.m. Transcript at 16. Claimant was also asked at hearing, “So at some point in time did you learn about this underlying decision because it’s part of that overpayment?” and claimant replied, “I did not learn of it until 2025.” August 25, 2025 8:15 a.m. Transcript at 18.

The record shows, more likely than not, that claimant had not been provided with enough information to understand that he was ineligible to receive benefits based on the Department’s conclusion that he had been unavailable for work. It further shows that claimant did not understand that the Department concluded he had been overpaid benefits on that basis, or that he could file late requests for hearing on decisions # 83837 and 120012, rather than only requesting waivers of the overpayment and appealing denials of the waiver requests. The factors beyond claimant’s reasonable control that prevented timely filing therefore did not end with claimant’s discovery of the overpayment between March and June 1, 2022, or with the August 2022 and November 2024 telephone calls with the Department.

Claimant testified that he received a collections letter regarding the overpayment on February 11, 2025, and did a Google search for “Can I appeal an overpayment with Unemployment Department in Oregon?” which yielded a result stating that he could file a request for hearing and linking to information about how to do so.<sup>2</sup> July 11, 2025 Transcript at 12-13, 19-20; August 25, 2025 8:15 a.m. Transcript at 18-19. Claimant testified that he then brought this information to his father’s attention but his father was too busy to help; that claimant began drafting a request for hearing on his own, which his

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<sup>2</sup> Claimant gave varying testimony about when this research occurred, initially stating that it happened in 2021 (although this predated the issuance of decision # 120012, which assessed the overpayment). July 11, 2025 Transcript at 19-20. Later in the same hearing, claimant referenced believing that he had 20 days following issuance of the February 11, 2025 collections letter in which to file a timely request for hearing to dispute the overpayment, which suggested that his research began on or after that date. July 11, 2025 Transcript at 12-13. In a later hearing, claimant explained that his research took place in “2025” after coming to believe that he had been “lied to” by Department representatives about not being able to appeal the overpayment, presumably referring to the August 2022 and November 2024 telephone calls. August 25, 2025 8:15 a.m. Transcript at 18-19. In weighing this evidence, it is more likely than not that claimant’s internet research was conducted between February 11 and 26, 2025.

father later reviewed; and that claimant mailed it to the Department on February 26, 2025.<sup>3</sup> July 11, 2025 Transcript at 21-22.

In considering the entire consolidated hearing record, it is more likely than not that as of February 26, 2025, claimant remained unaware of his right to file late requests for hearing on decisions # 83837 and 120012. On that date, claimant filed a request for hearing which he intended as a timely challenge to the validity of the February 11, 2025 collections notice. The Department appropriately treated the request as late requests for hearing on decisions # 83837 and 120012. Therefore, the factors that prevented timely filing had not ended when the requests for hearing were ultimately filed, and the requests were filed within a “reasonable time” under the rule. Accordingly, claimant’s late requests for hearing on decisions # 83837 and 120012 are allowed, and the matters remanded for hearings on the merits of those decisions.

**DECISION:** Orders No. 25-UI-302061 and 25-UI-302059 are set aside, and these matters remanded for further proceedings.

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

**DATE of Service: October 6, 2025**

**NOTE:** The failure of any party to appear at the hearing on remand will not reinstate Orders No. 25-UI-302061 and 25-UI-302059 or return these matters to EAB. Only timely applications for review of the orders mailed to the parties after the remand hearings will return these matters to EAB.

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<sup>3</sup> Claimant’s testimony regarding the timing of these interactions with his father was similarly contradictory or ambiguous, but it can reasonably be inferred that they occurred between February 11 and 26, 2025.



# 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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