

EMPLOYMENT APPEALS BOARD DECISION
2025-EAB-0558-R

Requests for Reconsideration Allowed
Orders No. 25-UI-302038 and 25-UI-302042 Reversed on Reconsideration
Late Requests for Hearing Allowed
Merits Hearings Required

PROCEDURAL HISTORY: On November 12, 2020, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant was discharged by the employer for misconduct and disqualified from receiving benefits effective May 3, 2020 (decision # 104240). On December 2, 2020, decision # 104240 became final without claimant having filed a request for hearing. On September 8, 2022, the Department served notice of an administrative decision based in part on decision # 104240, concluding that claimant willfully made a misrepresentation and failed to report a material fact to obtain benefits, and assessing a \$20,064 combined overpayment of regular unemployment insurance (regular UI), Federal Pandemic Unemployment Compensation (FPUC), and Lost Wages Assistance (LWA) benefits that claimant was required to repay, a \$2,739.60 monetary penalty, and a 52-week penalty disqualification from future benefits. On September 28, 2022, the September 8, 2022 overpayment decision became final without claimant having filed a request for hearing.

On April 30, 2025, claimant filed late requests for hearing on decision # 104240 and the September 8, 2022 overpayment decision. ALJ Kangas considered the requests, and on September 2, 2025 issued Orders No. 25-UI-302038 and 25-UI-302042, dismissing the requests as late, subject to claimant's right to renew the requests by responding to appellant questionnaires by September 16, 2025. Claimant did not file appellant questionnaire responses. On September 22, 2025, claimant filed applications for review of Orders No. 25-UI-302038 and 25-UI-302042 with the Employment Appeals Board (EAB). On October 17, 2025, EAB issued EAB Decisions 2025-EAB-0557 and 2025-EAB-0558, affirming Orders

No. 25-UI-302038 and 25-UI-302042 without prejudice. On October 22, 2025, claimant filed requests for reconsideration of EAB Decisions 2025-EAB-0557 and 2025-EAB-0558 with EAB.

EAB combined its review of Orders No. 25-UI-302038 and 25-UI-302042 under OAR 471-041-0095 (October 29, 2006). For case-tracking purposes, this decision is being issued in duplicate (EAB Decisions 2025-EAB-0557-R and 2025-EAB-0558-R). 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 is claimant's request for reconsideration, has been marked as EAB Exhibit 1, 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) On June 3, 2020, claimant filed an initial claim for unemployment insurance benefits that the Department determined was monetarily valid. Claimant last claimed benefits on September 15, 2020. Claimant did not have an appeal pending regarding his claim in September 2020.¹

(2) In September 2020, claimant moved from Oregon to Texas. Claimant did not notify the Department of this address change. On September 24, 2020, claimant received his first paycheck for work performed in Texas.

(3) On November 12, 2020, decision # 104240 was mailed to claimant's Oregon address on file with the Department. Decision # 104240 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 December 2, 2020." Order No. 25-UI-302038, Exhibit 1 at 3.

(4) On September 8, 2022, the September 8, 2022 overpayment decision was mailed to claimant's Oregon address on file with the Department. The September 8, 2022 overpayment decision stated, "SEE ENCLOSED FORM FOR APPEAL RIGHTS. Any appeal from this decision must be filed on or before September 28, 2022 to be timely." Order No. 25-UI-320402, Exhibit 1 at 1 (emphasis in original).

(5) Claimant did not receive decision # 104240 or the September 8, 2022 overpayment decision because they were mailed to his prior address.

(6) In early 2025, claimant learned that his income tax refund for 2024 had been intercepted to recover an overpayment of benefits. On April 30, 2025, claimant spoke with a Department representative about the refund intercept and learned of decision # 104240 and the September 8, 2022 overpayment decision. The representative assisted claimant in filing late requests for hearing on the administrative decisions

¹ EAB has taken notice of these facts, which are contained in Employment Department records. OAR 471-041-0090(1). 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 noticed fact(s) will remain in the record.

that day. The Department's records show the April 30, 2025 telephone call as the first documented communication with claimant during that year, and that his address had not been updated in the Department's records until that date.²

(7) On October 17, 2025, EAB issued EAB Decisions 2025-EAB-0557 and 2025-EAB-0558, Orders No. 25-UI-302038 and 25-UI-302042 affirming without prejudice. On October 22, 2025, claimant filed requests for reconsideration of EAB Decisions 2025-EAB-0557 and 2025-EAB-0558 with EAB.

CONCLUSIONS AND REASONS: Claimant's requests to reconsider EAB Decisions 2025-EAB-0557 and 2025-EAB-0558 are allowed. On reconsideration, EAB Decisions 2025-EAB-0557 and 2025-EAB-0558 are reversed, claimant's late requests for hearing are allowed, and the matters remanded for hearings on the merits of decision # 104240 and the September 8, 2022 overpayment decision.

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." "Any party may request reconsideration to correct an error of material fact or law, or to explain any unexplained inconsistency with Employment Department rule, or officially stated Employment Department position, or prior Employment Department practice." OAR 471-041-0145(1) (May 13, 2019). The request will be dismissed unless it says that a copy of the request was sent 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).

Claimant's requests for reconsideration were filed within 20 days of the date EAB Decisions 2025-EAB-0557 and 2025-EAB-0558 were mailed and contained a statement that a copy of the requests were sent to the employer. Claimant filed the requests for reconsideration seeking to correct errors of fact or law. Accordingly, claimant's requests met the threshold requirements for reconsideration, and are allowed. On reconsideration, EAB Decisions 2025-EAB-0557 and 2025-EAB-0558 are reversed, as explained below.

Late Requests 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. Under OAR 471-040-0010(1)(b)(A), "good cause" does not include failure to receive a document due to not notifying the Department or the Office of Administrative Hearings (OAH) of an updated address while the person is claiming benefits or if the person knows, or reasonably should know, of a pending appeal.

² EAB has taken notice of these facts, which are contained in Employment Department records. OAR 471-041-0090(1). 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 noticed fact(s) will remain in the record.

The requests for hearing on decision # 104240 and the September 8, 2022 overpayment decision were due by December 2, 2020 and September 28, 2022, respectively. Claimant's requests for hearing were filed on April 30, 2025, and were therefore late.

Claimant was prevented from timely filing requests for hearing because he did not receive the administrative decisions, which were mailed to a previous address. Claimant last claimed Oregon benefits on September 15, 2020, and had no appeal pending regarding his claim in September 2020. Claimant wrote in his request for reconsideration that he moved from Oregon to Texas in September 2020, and that he received his first paycheck from work performed in Texas on September 24, 2020. EAB Exhibit 1 at 1. It is reasonable to infer from this evidence that claimant moved from the Oregon address at some point between September 15 and 24, 2020. As claimant was not claiming benefits and did not have a pending appeal at the time he moved, his failure to update his address with the Department does not preclude a finding of good cause under OAR 471-040-0010(1)(b)(A). Claimant's failure to receive the administrative decisions in the mail constituted a factor beyond his reasonable control that prevented timely filing, and good cause therefore exists to extend the filing deadline.

Claimant wrote in his request for reconsideration that he learned of the overpayment resulting from the administrative decisions after his tax refund for 2024 was intercepted. EAB Exhibit 1 at 1. Claimant did not specify when he learned of the refund intercept, but wrote, "The first correspondence to my current address [in Texas] was March 2025." EAB Exhibit 1 at 1. Because the Department's records show no communication with claimant in 2025 until the April 30, 2025 telephone call, and their computer system was not updated with the Texas address until that date, claimant may have been referring to correspondence from tax authorities rather than from the Department directly, or may have been mistaken about the date. Regardless, the record shows that during the April 30, 2025 telephone call, a representative told claimant about both administrative decisions and his right to file late requests for hearings. It was at that time that the factors that prevented claimant from filing timely requests for hearing ended. Because claimant's late requests for hearing were filed the same day, they were filed within a "reasonable time" after the factors ended. Accordingly, claimant's late requests for hearing are allowed, and hearings on the merits of decision # 104240 and the September 8, 2022 overpayment decision are required.

DECISION: Claimant's requests to reconsider EAB Decisions 2025-EAB-0557 and 2025-EAB-0558 are allowed. On reconsideration, EAB Decisions 2025-EAB-0557 and 2025-EAB-0558 are reversed. Orders No. 25-UI-302038 and 25-UI-302042 are reversed. Claimant's late requests for hearing are allowed, and the matters remanded for hearings on the merits of decision # 104240 and the September 8, 2022 overpayment decision.

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

DATE of Service: November 21, 2025

NOTE: The failure of any party to appear at the hearings on remand will not reinstate Orders No. 25-UI-302038 or 25-UI-302042 or return these matters to EAB. Only a timely application for review of the order mailed to the parties after the remand hearing will return that 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

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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