

EMPLOYMENT APPEALS BOARD DECISION
2025-EAB-0611

Order No. 25-UI-306151 – Reversed & Remanded
Order No. 25-UI-306123 – Reversed & Remanded

PROCEDURAL HISTORY: On December 13, 2021, the Oregon Employment Department (the Department) served a Notice of Determination for Pandemic Unemployment Assistance (PUA) concluding that claimant was not entitled to PUA benefits effective February 9, 2020. On January 3, 2022, the December 13, 2021 PUA determination became final without claimant having filed a request for hearing. On January 27, 2022, the Department served notice of an administrative decision, based in part on the December 13, 2021 PUA determination, concluding that claimant willfully made a misrepresentation and failed to report a material fact to obtain benefits, and assessing a \$16,195 overpayment of PUA benefits, a \$20,400 overpayment of Federal Pandemic Unemployment Compensation (FPUC) benefits, and a \$1,800 overpayment of Lost Wages Assistance (LWA) benefits that claimant was required to repay to the Department, and a \$5,489.25 monetary penalty. On February 16, 2022, the January 27, 2022 overpayment decision became final without claimant having filed a request for hearing.

On September 19, 2025, claimant filed late requests for hearing on the December 13, 2021 PUA determination and the January 27, 2022 overpayment decision. ALJ Kangas considered claimant's hearing request on the January 27, 2022 overpayment decision, and on October 7, 2025, issued Order No. 25-UI-306123, dismissing claimant's request for hearing as late, subject to claimant's right to renew the request by responding to an appellant questionnaire by October 21, 2025. ALJ Kangas considered claimant's hearing request on the December 13, 2021 PUA determination, and on October 8, 2025, issued Order No. 25-UI-306151, dismissing claimant's request for hearing as late, subject to claimant's right to renew the request by responding to an appellant questionnaire by October 22, 2025.

On October 13, 2025, claimant filed applications for review of Orders No. 25-UI-306151 and 25-UI-306123 with the Employment Appeals Board.

EAB combined its review of Orders No. 25-UI-306151 and 25-UI-306123 under OAR 471-041-0095 (October 29, 2006). For case-tracking purposes, this decision is being issued in duplicate (EAB Decisions 2025-EAB-0610 and 2025-EAB-0611).

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 letter with information substantially equivalent to a response to the appellant questionnaire, which is 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, saying 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 or about October 26, 2020, claimant or someone impersonating claimant filed an initial application for PUA benefits. The Department determined that claimant had a valid claim for PUA benefits with a first effective week of February 9, 2020. Claimant or someone impersonating them claimed PUA benefits for multiple weeks in 2020 and 2021. Over that period, tens of thousands of dollars in benefits were paid out under the claim.¹

(2) On December 13, 2021, the Department mailed the December 13, 2021 PUA determination to claimant's address on file with the Department. The PUA determination concluded that claimant was not entitled to receive PUA benefits effective February 9, 2020 because they had allegedly "submitted a fictitious document in support of [their] claim of self-employment." Order No. 25-UI-306151, Exhibit 1 at 1. The December 13, 2021 PUA determination stated, "You have the right to appeal this decision if you do not believe it is correct. Your request for appeal must be received by January 3, 2022." Order No. 25-UI-306151, Exhibit 1 at 2. On January 3, 2022, the December 13, 2021 PUA determination became final without claimant having filed a request for hearing.

(3) On January 27, 2022, the Department mailed the January 27, 2022 overpayment decision to claimant's address on file with the Department. The overpayment decision contained findings of fact alleging, among other things, that claimant reported to be self-employed in the flower business, that no businesses listed under claimant's name were filed with the Oregon Secretary of State, and that the Department had received a tax form from claimant that had been altered. Order No. 25-UI-306123, Exhibit 1 at 2. The January 27, 2022 overpayment decision stated, "Any appeal from this decision must be filed on or before February 16, 2022 to be timely." Order No. 25-UI-306123, Exhibit 1 at 1. On February 16, 2022, the January 27, 2022 overpayment decision became final without claimant having filed a request for hearing.

(4) In July 2025, claimant received a letter in the mail indicating that their wages were being garnished to pay the overpayment reflected in the January 27, 2022 overpayment decision. EAB Exhibit 1 at 1.

(5) On August 13 and 19, 2025, claimant called the Department inquiring about the wage garnishment. The representatives told claimant that the inquiries would need to be directed to a representative in the Department's Recovery division. On August 19, 2025, claimant again called and spoke to a different representative. Claimant told the representative that the overpayment was due to identity theft. The

¹ EAB has taken notice of the facts contained in this paragraph, 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 facts will remain in the record.

representative told claimant she was creating an identity theft referral and sending it to the Recovery division, and recommended that claimant call that division for status updates on the referral.²

(6) Later that day, August 19, 2025, an investigator reviewed the referral and made a determination that no identity theft had occurred by matching the signatures on the checks that paid out the benefits to claimant's signature from a prior claim.³

(7) On September 8, 2025, claimant called the Department and left a voicemail asking for a status update on the identity theft referral. On September 10, 2025, a representative attempted to return the call, and inform claimant that the identity theft review had been closed and claimant was considered responsible for the overpayment. A different representative also attempted to call claimant that day, and inform claimant of their right to file late appeals of the December 13, 2021 and January 27, 2022 administrative decisions. However, claimant's voicemail box was full and therefore no messages were left.⁴

(8) On September 19, 2025, claimant called the Department again asking for a status update on the identity theft referral. The representative informed claimant that the result of the review was that no identity theft had occurred and that claimant's options were either to file late appeals of the administrative decisions or pay the overpayment. Claimant stated that they wished to file late appeals, and the representative helped claimant to do so.⁵

(9) On September 19, 2025, claimant filed late requests for hearing on the December 13, 2021 PUA determination and the January 27, 2022 overpayment decision.

CONCLUSIONS AND REASONS: Orders No. 25-UI-306151 and 25-UI-306123 and are reversed, and the matters remanded for a hearing on whether claimant's late requests for hearing on the December 13, 2021 PUA determination and the January 27, 2022 overpayment decision should be allowed, and, if so, the merits of those decisions.

² EAB has taken notice of the facts contained in this paragraph, 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 facts will remain in the record.

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⁴ EAB has taken notice of the facts contained in this paragraph, 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 facts will remain in the record.

⁵ EAB has taken notice of the facts contained in this paragraph, 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 facts will remain in the record.

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 deadlines for claimant to file timely requests for hearing on the December 13, 2021 PUA determination and the January 27, 2022 overpayment decision were January 3, 2022 and February 16, 2022, respectively. Because claimant did not file their hearing requests on the decisions until September 19, 2025, the requests for hearing were late. Remand is necessary to develop the record regarding whether good cause exists to extend the deadline to file requests for hearing, and whether claimant filed within a reasonable time.

The record suggests that claimant first became aware of the overpayment in July 2025 when their wages were garnished. In their appellant questionnaire response, claimant stated, "I was not aware of this claim and the resulting . . . overpayment determination or the need to Appeal until July of 2025, when I receive a letter in the mail for wage garnishment." EAB Exhibit 1 at 1. In isolation, claimant's reference to not becoming aware of "the need to Appeal" until July 2025 could be read to mean that claimant knew in July 2025 of their right to appeal the administrative decisions. However, given the context of claimant's multiple calls to the Department, it appears claimant may have been advised to await completion of the identity theft referral from the Recovery division, before taking any further action, and that claimant was not advised of their right to appeal until September 19, 2025 (and then appealed that very day).

On remand, the ALJ should ask any questions necessary to confirm that claimant did not learn until September 19, 2025, rather than July 2025, that they had the right to file late requests for hearing on the administrative decisions.

Next, the ALJ should make inquiries to develop whether claimant had received or been made aware of the administrative decisions and right to appeal before the July 2025 wage garnishment. Specifically, the administrative decisions were issued in late 2021 and early 2022, respectively. The record shows that the decisions were mailed to an address on Pine Street in Portland, Oregon. Order No. 25-UI-306151, Exhibit 1 at 1; Order No. 25-UI-306123, Exhibit 1 at 1. On remand, the ALJ should ask questions to develop whether the Pine Street address in Portland was where claimant lived in the timeframe that the December 13, 2021 PUA determination and the January 27, 2022 overpayment decision were issued. To this end, claimant on remand may wish to submit proof of their residence address at the time the administrative decisions were mailed. If the Pine Street address in Portland was not where claimant lived in the timeframe that the decisions were issued, the ALJ should ask questions to assess whether claimant failed to receive the administrative decisions due to not notifying the Department of an updated address.⁶ If the Pine Street address in Portland was where claimant lived in the timeframe that the administrative decisions were issued, the ALJ should ask what circumstances, if any, caused claimant to fail to receive the decisions at that time.

⁶ See OAR 471-040-0010(1)(b)(A) ("good cause" does not include failure to receive a document due to not notifying the Department or OAH of an updated address while the person is claiming benefits or if the person knows, or reasonably should know, of a pending appeal).

This may involve some inquiry into claimant's identity theft allegations. Department records indicate that claimant told the representative who helped them file the September 19, 2025 hearing requests that they believed their sister filed the PUA claim and received the benefits.⁷ The ALJ should ask any questions necessary to assess whether and how claimant's sister may have prevented claimant from receiving the administrative decisions, if the Pine Street address in Portland was where claimant lived at the time.

If the record on remand shows that claimant did not receive the administrative decisions when they were issued due to a factor beyond their reasonable control or an excusable mistake and was not aware of their right to appeal the decisions until September 19, 2025, and necessarily filed their hearing requests that day within a reasonable time, claimant will have established good cause to allow their late requests for hearing. If this is the case, claimant will be entitled to a hearing on the merits of the December 13, 2021 PUA determination and the January 27, 2022 overpayment decision.

If the merits are reached, it appears that inquiry on remand will focus on claimant's assertion that they are not responsible for the overpayment because they did not file the claim or receive the benefits, and the claim was instead filed and the benefits received by someone who stole claimant's identity. As it may benefit the parties, the Department should consider having a representative from its Recovery division who is well-versed in identity theft testify at the remand hearing. If the merits are reached, inquiry should include, but not be limited to, how and why claimant believes their identity was stolen, who stole it, and when and how that person was able to do so. Inquiries should be made as to whether claimant ever had a flower business and whether they ever submitted tax documents to the Department. The ALJ should ask about the identity verification conducted by the Department at the time the PUA claim was filed, such as what verifying documentation was reviewed, and when. On remand, claimant may wish to submit copies of their tax returns, bank account statements, and any other documentation that might demonstrate that claimant was not receiving benefits during the 2020 and 2021 timeframe. Claimant may also wish to submit copies of any action taken by them to report or address identity theft, such as police reports or consumer credit agency reports.

Orders No. 25-UI-306151 and 25-UI-306123 are reversed, and the matters remanded for a hearing on whether claimant's late requests for hearing on the December 13, 2021 PUA determination and the January 27, 2022 overpayment decision should be allowed, and, if so, the merits of those decisions.

DECISION: Orders No. 25-UI-306151 and 25-UI-306123 are set aside, and these matters remanded for further proceedings consistent with this order.

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

DATE of Service: November 13, 2025

⁷ EAB has taken notice of this fact, which is 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 will remain in the record.

NOTE: The failure of any party to appear at the hearing on remand will not reinstate Orders No. 25-UI-306123 or 25-UI-306151 or return either of these matters to EAB. Only a timely application for review of the applicable subsequent order mailed to the parties after the remand hearing will return these matters 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 دستورالعمل موجود در پایان آن، از دادگاه تجدید نظر اورگان درخواست تجدید نظر کنید.

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

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