

EMPLOYMENT APPEALS BOARD DECISION
2025-EAB-0762

Reversed & Remanded

PROCEDURAL HISTORY: On March 13, 2025, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant filed a late claim for benefits for the week of December 22 to December 28, 2024 (week 52-24) and was ineligible for benefits for that week (decision # L0009664551). Also on March 13, 2025, the Department served notice of an administrative decision concluding that claimant filed a late claim for benefits for the week of December 29, 2024 to January 4, 2025 (week 01-25) and was ineligible for benefits for that week (decision # L0009645709). On April 2, 2025, decisions # L0009664551 and L0009645709 became final without claimant having filed requests for hearing.

On September 30, 2025, claimant filed late requests for hearing on decisions # L0009664551 and L0009645709. ALJ Kangas considered claimant's requests. On November 17, 2025, ALJ Kangas issued Order No. 25-UI-310735, dismissing claimant's request for hearing on decision # L0009664551 as late, subject to claimant's right to renew the request by responding to an appellant questionnaire by December 1, 2025, or file an application for review of Order No. 25-UI-310735 with the Employment Appeals Board (EAB) by December 8, 2025. On November 19, 2025, ALJ Kangas issued Order No. 25-UI-311325, dismissing claimant's request for hearing on decision # L0009645709 as late, subject to claimant's right to renew the request by responding to an appellant questionnaire by December 3, 2025, or file an application for review of Order No. 25-UI-311325 with EAB by December 9, 2025.

On December 4, 2025, claimant filed timely applications for review of Orders No. 25-UI-310735 and 25-UI-311325 with EAB that included a combined response to both appellant questionnaires. EAB combined its review of Orders No. 25-UI-310735 and 25-UI-311325 under OAR 471-041-0095 (October 29, 2006). For case-tracking purposes, this decision is being issued in duplicate (EAB Decisions 2025-EAB-0763 and 2025-EAB-0762).

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 appellant questionnaire response, 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 March 13, 2025, the Department mailed decisions # L0009664551 and L0009645709 to claimant's address on file with the Department. The decisions each stated, "You have the right to appeal our decision and request a hearing if you believe our decision is wrong. We must receive your request for a hearing no later than **April 2, 2025.**" Order No. 25-UI-310735, Exhibit 1 at 2; Order No. 25-UI-311325, Exhibit 1 at 2 (emphasis in originals).

(2) On March 6, 2025, before the issuance of decisions # L0009664551 and L0009645709, the Department issued to claimant a different administrative decision, # L0009632886, that denied claimant's request to backdate claimant's initial claim. Claimant requested a hearing on this decision via Frances Online on March 21, 2025.¹

(3) Claimant believed that they filed their requests for hearing on decisions # L0009664551 and L0009645709 in a timely manner, via "a live agent" on Frances Online on March 26, 2025. EAB Exhibit 1 at 1.

(4) On April 2, 2025, decisions # L0009664551 and L0009645709 became final without claimant having filed requests for hearing that were processed or recognized by the Department.

(5) On September 30, 2025, claimant filed late requests for hearing on decisions # L0009664551 and L0009645709 via telephone. Order No. 25-UI-310735, Exhibit 2 at 1; Order No. 25-UI-311325, Exhibit 2 at 1.

CONCLUSIONS AND REASONS: Orders No. 25-UI-310735 and 25-UI-311325 are set aside and these matters remanded to determine whether claimant's requests for hearing were timely, or late and should be allowed, and if so, the merits of decisions # L0009664551 and L0009645709.

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 requests for hearing on decisions # L0009664551 and L0009645709 was April 2, 2025. Claimant filed requests for hearing on September 30, 2025, and those hearing requests therefore were late. However, claimant's statements in their appellant questionnaire response suggest that claimant filed requests for hearing before the April 2, 2025 deadline. Specifically, in their appellant questionnaire, claimant was asked, "On what date (mm/dd/yy) did you file your hearing request (appeal)?" and responded, "March 26th 2025 with a live agent in Frances. They said it was in time. I answered their questions to complete the appeal." EAB Exhibit 1 at 1.

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.

This information raises the possibility that claimant filed timely requests for hearing on decisions # L0009664551 and L0009645709 on March 26, 2025. However, it also is possible that the mention of the communication with a live agent via Frances Online was a reference to the backdate denial decision, # L0009632886, that Department records show claimant appealed on March 21, 2025, using Frances Online. It is also notable that a Department representative left a note in claimant's file on March 20, 2025 stating as follows, "Live Chat; advised claimant to file the appeal to the denial on claim. Claimant to do so in Frances. Also advised backdate request was denied."² Because it is unclear from the information available whether claimant filed timely requests for hearing on decisions # L0009664551 and L0009645709, a remand hearing is warranted for further development of the record.

On remand, the ALJ should develop the record to determine whether claimant filed timely hearing requests on decisions # L0009664551 and L0009645709. The ALJ should ask questions to distinguish whether claimant's experience with a live agent in March 2025 related to decisions # L0009664551 and L0009645709, had to do with decision # L0009632886, or concerned all three administrative decisions. The ALJ should make inquiries to clarify whether the live agent session claimant believed occurred on March 26, 2025 was the live chat documented by the representative on March 20, 2025. If the record on remand shows that the March 2025 live agent session related to decisions # L0009664551 and L0009645709, the ALJ should ask questions to determine whether, pursuant to OAR 471-040-0005(1) (July 15, 2018),³ claimant requested a hearing on the decisions or otherwise expressed a present intent to appeal them at that time.

If the record on remand shows that claimant did not file requests for hearing before the April 2, 2025 deadline, the ALJ should ask questions to develop whether claimant had good cause to file the hearing requests late on September 30, 2025. To this end, the ALJ should ask questions to determine whether claimant may have mistakenly believed that their hearing requests were timely filed as of March 26, 2025 and, if so, why claimant filed their hearing requests on the administrative decisions on September 30, 2025.

Because further development of the record is necessary to determine whether claimant filed timely requests for hearing, or late hearing requests that should be allowed, these matters are remanded. If the ALJ concludes that claimant filed timely requests for hearing or late hearing requests that should be allowed, the ALJ must then address the merits of decisions # L0009664551 and L0009645709.

DECISION: Orders No. 25-UI-310735 and 25-UI-311325 are set aside, and these matters remanded for further proceedings consistent with this order.

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 facts will remain in the record.

³ Under OAR 471-040-0005(2)(a), an individual may request a hearing on an administrative decision related to payment of benefits by "mail, fax, e-mail, or other means as designated by [the] Employment Department[.]" A request for hearing may also be filed "[i]n person at any publicly accessible Employment Department office in Oregon." OAR 471-040-0005(2)(b). Use of forms provided by the Department or similar offices for requesting a hearing is not required so long as the individual "expresses a present intent to appeal and it can be determined what issue or decision is being appealed." OAR 471-040-0005(1).

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

DATE of Service: January 9, 2026

NOTE: The failure of any party to appear at the hearing on remand will not reinstate Orders No. 25-UI-310735 or 25-UI-311325 or return the matters to EAB. Only a timely application for review of the orders mailed to the parties after the remand hearing will return the 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

ទំនាក់ទំនង – តាមព័ត៌មាននេះមិនមានការបំភ្លឺឡើយអំពីការងាររបស់លោកអ្នក។ ប្រសិនបើលោកអ្នកមិនយល់អំពីសេចក្តីសម្រេចនេះ សូមទាក់ទងគណៈកម្មការឧទ្ធរណ៍ការងារភ្លាមៗ។ ប្រសិនបើលោកអ្នកមិនយល់ស្របចំពោះសេចក្តីសម្រេចនេះទេ លោកអ្នកអាចដាក់ពាក្យប្តឹងសុំឲ្យមានការពិនិត្យរឿងក្តីឡើងវិញជាមួយតុលាការឧទ្ធរណ៍រដ្ឋ Oregon ដោយអនុវត្តតាមសេចក្តីណែនាំដែលសរសេរនៅខាងចុងបញ្ចប់នៃសេចក្តីសម្រេចនេះ។

Arabic

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Farsi

توجه - این حکم بر مزایای بیکاری شما تأثیر می گذارد. اگر با این تصمیم موافق نیستید، بلافاصله با هیأت فرجام خواهی استخدام تماس بگیرید. اگر از این حکم رضایت ندارید، می توانید با استفاده از دستورالعمل موجود در پایان آن، از دادگاه تجدید نظر اورگان درخواست تجدید نظر کنید.

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