

EMPLOYMENT APPEALS BOARD DECISION
2026-EAB-0008

Late Application for Review Allowed
Reversed
Late Request for Hearing Allowed
Merits Hearing Required

PROCEDURAL HISTORY: On April 15, 2022, the Oregon Employment Department (the Department) served a Notice of Determination for Pandemic Unemployment Assistance (PUA), concluding that claimant was ineligible to receive PUA benefits from December 6, 2020 through July 31, 2021. On May 5, 2022, the April 15, 2022 PUA determination became final without claimant having filed a request for hearing. On May 12, 2022, claimant filed a late request for hearing. ALJ Kangas considered the request, and on January 12, 2023, issued Amended Order No. 23-UI-212428, dismissing the request for hearing as late, subject to claimant's right to renew the request by responding to an appellant questionnaire by January 26, 2023.¹ On February 1, 2023, Order No. 23-UI-212428 became final without claimant having filed an appellant questionnaire response or an application for review of Order No. 23-UI-212428 with the Employment Appeals Board (EAB). On February 26, 2023, claimant filed a late application for review of Order No. 23-UI-212428 with the Office of Administrative Hearings (OAH), but OAH did not recognize it as such and did not forward it to EAB. On February 28, 2023, ALJ Kangas mailed a letter to claimant saying that OAH would take no action regarding the February 26, 2023 filing because it was filed after the appellant questionnaire response deadline of January 26, 2023. On December 26, 2025, claimant filed another late application for review of Order No. 23-UI-212428 and a late appellant questionnaire response with EAB.

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 February 26, 2023 late application for review, and December 26, 2025 late appellant questionnaire response, which have been marked as EAB Exhibits 1 and 2, respectively, 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 exhibits will remain in the record.

¹ Order No. 23-UI-212428 amended Order No. 22-UI-200329, issued on August 11, 2022, to correct claimant's mailing address.

FINDINGS OF FACT: (1) The April 15, 2022 PUA determination, mailed to claimant's address on file with the Department on April 15, 2022, 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 May 5, 2022." Exhibit 1 at 2. Claimant received the April 15, 2022 PUA determination between May 6, 2022 and May 12, 2022.

(2) On May 12, 2022, claimant filed a late request for hearing on the April 15, 2022 PUA determination.

(3) On January 12, 2023, Order No. 23-UI-212428 was emailed to claimant and mailed to his address on file with OAH. Order No. 23-UI-212428 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. 23-UI-212428 at 2. Order No. 23-UI-212428 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 February 1, 2023."

(4) At or shortly after the time Order No. 23-UI-212428 was issued, claimant's home electricity was disconnected, and his telephone service suspended, for inability to pay. Claimant lived in a remote area with no means of transportation. After six weeks, between February 19, 2023 and February 26, 2023, claimant obtained a small loan and used it to restore his telephone service.

(5) On February 26, 2023, claimant used his telephone to send an email in reply to the January 12, 2023 email from OAH, which had contained a copy of Order No. 23-UI-212428. Claimant's reply included the details of his living situation over the previous six weeks and stated, in part, "I respectfully request that the hearing review board make the necessary arrangements and take the obligated steps to allow me my full rights to claim what I am entitled to and was entitled to and was approved for prior to things getting a little bit mixed up, at the administrative level." EAB Exhibit 1 at 3. On February 28, 2023, OAH sent a letter to claimant in response, stating that they would not consider the February 26, 2023 filing or take further action on it.

(6) On December 26, 2025, claimant filed a late application for review of Order No. 23-UI-212428 and an appellant questionnaire response with EAB.

CONCLUSIONS AND REASONS: Claimant's February 26, 2023 late application for review is allowed. Claimant's late request for hearing is allowed, and the matter remanded for a hearing on the merits of the April 15, 2022 PUA determination.

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).

“An application for review may be filed on forms provided by OAH or the Employment Department and other similar offices in other states. Use of the form is not required, provided the applicant requests review of a specific ALJ Order, or otherwise expresses intent to appeal an ALJ Order.” OAR 471-041-0060(1) (May 13, 2019). “An application for review may be filed in person, or by mail, fax, or electronic means to EAB, or any office of the Employment Department, including OAH[.]” OAR 471-041-0060(2).

The application for review of Order No. 23-UI-212428 was due by February 1, 2023. Claimant filed an application for review on December 26, 2025, and it was therefore late. However, claimant had sent an email to OAH on February 26, 2023, in direct reply to the emailed copy of Order No. 23-UI-212428, which stated, in part: “I respectfully request that the hearing review board make the necessary arrangements and take the obligated steps to allow me my full rights to claim what I am entitled to[.]” EAB Exhibit 1 at 3. Claimant’s email also described factors, discussed in further detail below, that affected his ability to timely file an application for review of the order. *See* EAB Exhibit 1 at 1-3. As claimant’s email requested review of a specific ALJ order and was filed with OAH by electronic means, it constituted an application for review under OAR 471-041-0060. Because the February 26, 2023 application for review was filed after the February 1, 2023 filing deadline, it was also late. As the earlier of the two late applications for review, the February 26, 2023 late application for review is the focus of the good cause and “reasonable time” analyses.

A copy of Order No. 23-UI-212428 was emailed to claimant on January 12, 2023, and the record shows that he ultimately received the email. *See* EAB Exhibit 1 at 4. Claimant wrote in the February 26, 2023 late application for review that he lived in an “undeveloped” area without access to “computers or Internet or any other regular services,” and was ten miles from the nearest library. EAB Exhibit 1 at 3. Claimant also wrote, “I literally ran out of money and survival resources of which I could draw upon six weeks ago. This was without cell service, transportation, and even basic needs such as electricity. Fortunately I was able to borrow \$100 [from] my former employer, in order to be up my cell service and meet some basic needs.” EAB Exhibit 1 at 1. Claimant also wrote that he was emailing the application for review using his telephone and that typing it into the device “was very tedious” and took “a long time.” EAB Exhibit 1 at 3.

It is reasonable to infer from this timeline of events that claimant was unable to use his telephone, either due to suspension of service or lacking electricity to charge it, on or a few days after January 12, 2023, which was the date Order No. 23-UI-212428 was issued and emailed to claimant. It is also reasonable to infer that claimant’s living situation prevented him from filing an application for review by other methods. These were factors beyond claimant’s reasonable control that prevented timely filing of an application for review, and good cause therefore exists to extend the filing deadline. As claimant stated that these circumstances continued for six weeks, it is reasonable to infer that they ended within seven days before February 26, 2023, when claimant filed the first late application for review.² Therefore, the February 26, 2023 late application for review was filed within a “reasonable time” after the factors that prevented timely filing ended. Accordingly, claimant’s February 26, 2023 late application for review is allowed.

² Six weeks after January 12, 2023 was February 23, 2023.

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 request for hearing on the April 15, 2022 PUA determination was due by May 5, 2022. Claimant’s request for hearing was filed on May 12, 2022, and was therefore late. Claimant wrote in the appellant questionnaire that he received the April 15, 2022 PUA determination “more than 2 weeks after the fact,” and filed the request for hearing “within 1 week after receiving it.” EAB Exhibit 2 at 2. It is reasonable to infer from this that claimant received the April 15, 2022 PUA determination between May 6, 2022 and May 12, 2022, as that period is more than two weeks after April 15, 2022 and within one week of May 12, 2022. Therefore, claimant received the April 15, 2022 PUA determination after the timely filing deadline. More likely than not, this was a factor beyond claimant’s reasonable control that prevented timely filing of a request for hearing, and good cause exists to extend the filing deadline. Furthermore, claimant’s late request for hearing was filed within a seven-day “reasonable time” after the factor that prevented timely filing ended with his receipt of the April 15, 2022 PUA determination. Accordingly, claimant’s late request for hearing is allowed, and the matter remanded for a hearing on the merits of the April 15, 2022 PUA determination.

DECISION: Order No. 23-UI-212428 is set aside, and this matter remanded for further proceedings consistent with this order.

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

DATE of Service: February 2, 2026

NOTE: The failure of any party to appear at the hearing on remand will not reinstate Order No. 23-UI-212428 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

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 الإستئناف 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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