

**EMPLOYMENT APPEALS BOARD DECISION**  
**2026-EAB-0024**

*Affirmed*

*Late Request to Reopen Allowed*

*Overpayment Assessed*

*Claimant is liable for \$7,084 PEUC overpayment, \$5,400 FPUC overpayment, a \$3,745.20 penalty, and 52 penalty weeks*

**PROCEDURAL HISTORY:** On January 27, 2023, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant willfully made a misrepresentation and failed to report a material fact to obtain benefits, and assessing a \$7,084 overpayment of Pandemic Emergency Unemployment Compensation (PEUC) benefits, a \$5,400 overpayment of Federal Pandemic Unemployment Compensation (FPUC) benefits, that claimant was required to repay to the Department, a \$3,745.20 monetary penalty, and a 52-week penalty disqualification from future benefits. Claimant filed a timely request for hearing.

On April 17, 2023, the Office of Administrative Hearings (OAH) served notice on the parties of a hearing on the January 27, 2023 PEUC overpayment decision scheduled for May 1, 2023. On May 1, 2023, claimant failed to appear for the hearing, and, on May 9, 2023, ALJ Monroe issued Order No. 23-UI-224350, dismissing claimant's hearing request due to her failure to appear. On May 30, 2023, Order No. 23-UI-224350 became final without claimant having filed a request to reopen the May 1, 2023 hearing. On October 14, 2025, claimant filed a late request to reopen the May 1, 2023 hearing.

On December 2, 2025, ALJ Janzen convened a hearing on the late request to reopen and, if reached, the January 27, 2023 PEUC overpayment decision, along with late requests to reopen, and if reached, four substantive related matters: a January 27, 2023 Pandemic Unemployment Assistance (PUA) overpayment decision; a January 19, 2023 Notice of Determination for PUA; decision # 0615902, a January 31, 2023 Lost Wages Assistance (LWA) overpayment decision; and decision # 121512, a February 16, 2023 administrative decision denying claimant's request for waiver of recovery of PEUC, PUA, and FPUC overpayments. ALJ Janzen conducted a consolidated hearing that day on the late requests to reopen and then the merits of the January 27, 2023 PUA overpayment decision; the January

19, 2023 Notice of Determination for PUA; and decision # 0615902.<sup>1</sup> ALJ Janzen also addressed the late request to reopen in the decision # 121512 appeal during the December 2, 2025 hearing. ALJ Janzen postponed addressing the late request to reopen and, if reached, the January 27, 2023 PEUC overpayment decision and the merits of decision # 121512 for hearings to be conducted on December 17, 2025, and January 7, 2026,<sup>2</sup> respectively.

On December 17, 2025, ALJ Janzen conducted a hearing on the January 27, 2023 PEUC overpayment decision. On December 18, 2025, ALJ Janzen issued Order No. 25-UI-314774, cancelling Order No. 23-UI-224350, allowing claimant's late request to reopen the May 1, 2023 hearing, and affirming the January 27, 2023 PEUC overpayment decision on the merits. On January 2, 2026, claimant filed an application for review of Order No. 25-UI-314774 with the Employment Appeals Board (EAB).

**WRITTEN ARGUMENTS:** Claimant submitted several written arguments.

First, on January 2, 2026, claimant submitted a written argument with her application for review. EAB did not consider claimant's January 2, 2026 argument because claimant did not state that she provided a copy of the argument to the employer as required by OAR 471-041-0080(2)(a) (May 13, 2019). The argument also contained information that was not part of the hearing record and did not show that factors or circumstances beyond claimant's reasonable control prevented her from offering the information during the hearing as required by OAR 471-041-0090 (May 13, 2019). EAB considered only the information received into evidence at the hearing. *See* ORS 657.275(2).

Next, on January 9, 2026, claimant submitted a written argument that included information from Department call notes and made arguments relating to the call note information. EAB did not consider claimant's January 9, 2026 argument because she did not state that she provided a copy of the argument to the employer as required by OAR 471-041-0080(2)(a). The January 9, 2026 argument may also be viewed as a request for EAB to consider additional evidence. The additional evidence request is addressed in the Evidentiary Matter section that follows.

Next, on January 15, 2026, claimant submitted three written arguments via email at 11:05 a.m., 12:54 p.m., and 1:03 p.m., respectively. EAB did not consider claimant's January 15, 2026 at 11:05 a.m. argument because she did not state that she provided a copy of the argument to the employer as required

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<sup>1</sup> On December 9, 2025, ALJ Janzen issued Order No. 25-UI-313390, allowing claimant's late request to reopen in the January 27, 2023 PUA overpayment decision appeal, and reversing the PUA overpayment decision by concluding that the PUA overpayment was not a case of willful misrepresentation and so the Department was subject to the one-year limitation to amend its original decisions to allow payment under ORS 657.267(4), and therefore lacked jurisdiction to assess the \$9,430 PUA overpayment and the \$10,200 FPUC overpayment set forth in the January 27, 2023 PUA overpayment decision, meaning claimant was not liable for those overpayments. Also on December 9, 2025, ALJ Janzen issued Orders No. 25-UI-313385 and 25-UI-313394, respectively allowing claimant's late requests to reopen and reversing the January 19, 2023 Notice of Determination for PUA and decision # 0615902. Orders No. 25-UI-313390, 25-UI-313385, and 25-UI-313394 were not appealed by claimant and became final on December 29, 2025.

<sup>2</sup> On January 7, 2026, ALJ Janzen conducted a hearing on the merits of decision # 121512, and, on January 8, 2026, issued Order No. 26-UI-316404, modifying decision # 121512 by concluding that claimant's waiver request as to the \$9,430 overpayment of PUA benefits and \$10,200 overpayment of FPUC benefits was moot as claimant was not liable for those overpayments but that her waiver request as to the \$7,084 overpayment of PEUC benefits and \$5,400 of FPUC benefits was denied because those overpayment amounts were based on willful misrepresentation. On January 15, 2026, claimant filed an application for review of Order No. 26-UI-316404 with EAB.

by OAR 471-041-0080(2)(a). EAB also did not consider claimant's January 15, 2026 at 12:54 p.m. and at 1:03 p.m. arguments because, although they contained certificates of service, the certificates indicated only that the Department had been served copies, and so claimant did not state that she provided copies of the arguments to *the employer* as required by OAR 471-041-0080(2)(a). The arguments also contained information that was not part of the hearing record and did not show that factors or circumstances beyond claimant's reasonable control prevented her from offering the information during the hearing as required by OAR 471-041-0090. EAB considered only the information received into evidence at the hearing. *See* ORS 657.275(2).

Next, on January 22, 2026, claimant submitted a written argument. EAB did not consider claimant's January 22, 2026 argument because claimant did not state that she provided a copy of the argument to the employer as required by OAR 471-041-0080(2)(a). The argument also contained information that was not part of the hearing record and did not show that factors or circumstances beyond claimant's reasonable control prevented her from offering the information during the hearing as required by OAR 471-041-0090. EAB considered only the information received into evidence at the hearing. *See* ORS 657.275(2).

Next, on January 26, 2026, claimant submitted a written argument, which consisted of a note from a person purporting to be claimant's medical provider. EAB did not consider claimant's January 26, 2026 argument because claimant did not state that she provided a copy of the argument to the employer as required by OAR 471-041-0080(2)(a). The argument also contained information that was not part of the hearing record and did not show that factors or circumstances beyond claimant's reasonable control prevented her from offering the information during the hearing as required by OAR 471-041-0090. EAB considered only the information received into evidence at the hearing. *See* ORS 657.275(2).

Finally, on February 7, 2026, claimant submitted a written argument. EAB did not consider claimant's February 7, 2026 argument because it was not received by EAB within the time allowed under OAR 471-041-0080(1). OAR 471-041-0080(2)(b). EAB also did not consider claimant's February 7, 2026 argument because claimant did not state that she provided a copy of the argument to the employer as required by OAR 471-041-0080(2)(a). The argument also contained information that was not part of the hearing record and did not show that factors or circumstances beyond claimant's reasonable control prevented her from offering the information during the hearing as required by OAR 471-041-0090. EAB considered only the information received into evidence at the hearing. *See* ORS 657.275(2).

**EVIDENTIARY MATTER:** In her January 9, 2026 written argument, claimant requested that EAB consider additional evidence. Specifically, claimant requested that Department call notes obtained by claimant on January 6, 2026, following a records request claimant made on December 17, 2025, be considered by EAB. Claimant's January 9, 2026 Written Argument at 2, 11, 14. As examples of the call notes' probative value, claimant asserted that the notes suggest that she had called the Department about not receiving a prepaid debit card used to disburse benefit payments, known as a Reliacard. Claimant's January 9, 2026 Written Argument at 2. She also asserted that the notes indicate that the Department used "offset mechanics" and argued that meant her overpayments of benefits may have been the result of "agency processing decisions rather than claimant fault." Claimant's January 9, 2026 Written Argument at 2. Claimant argued that inclusion in the hearing record of all the call notes she obtained in response to

her records request is necessary to show that she was without fault for the overpayments.<sup>3</sup> Claimant’s January 9, 2026 Written Argument at 2-3. She also contended that the call notes were not available to her until after the December 17, 2025 hearing. Claimant’s January 9, 2026 Written Argument at 3.

Under OAR 471-041-0090(1)(b), “Any party may request that EAB consider additional evidence, and EAB may allow such a request when the party offering the additional evidence establishes that: (A) The additional evidence is relevant and material to EAB’s determination, and (B) Factors or circumstances beyond the party’s reasonable control prevented the party from offering the additional evidence into the hearing record.”

Claimant’s request is denied. First, the cited examples of call notes, relating to claimant’s call about not receiving a Reliacard and the Department’s use of offset mechanics, appear to offer only minimal probative value and to be largely immaterial. It therefore is not evident that the additional evidence of the call notes is both relevant and material to EAB’s determination.

Second, claimant failed to show that factors beyond her reasonable control prevented her from offering the call notes evidence into the hearing record. Claimant made the records request on December 17, 2025 and received the call notes relatively soon thereafter, on January 6, 2026. Claimant therefore did not have the notes in her possession to offer into the record at the December 17, 2025 hearing. However, it was within claimant’s reasonable control to make the records request promptly, such as at or near in time to when she filed her October 14, 2025 request to reopen, and had she done so, the Department likely would have produced the call notes prior to the December 17, 2025 hearing. Claimant’s December 17, 2025 records request is phrased in a manner that suggests that claimant was motivated to make her request that day because of the Department witness’s testimony at hearing that day. *See* Claimant’s January 9, 2026 Written Argument at 11 (“Please provide all . . . agent notes . . . for calls . . . to OED, including the 13 calls referenced by OED[.]”). Nevertheless, it was foreseeable that the Department’s witness might offer testimony about claimant’s contacts with the Department, and nothing beyond claimant’s reasonable control prevented her from anticipating that possibility and requesting the call notes promptly.

**ADOPTION OF HEARING ORDER:** EAB considered the entire hearing record, including witness testimony and any exhibits admitted as evidence. EAB agrees with Order No. 25-UI-314774’s findings of fact, reasoning, and conclusions that claimant’s late request to reopen should be allowed, and that claimant willfully made a misrepresentation and failed to report a material fact to obtain benefits and is liable for a \$7,084 overpayment of PEUC benefits, a \$5,400 overpayment of FPUC benefits, a \$3,745.20 monetary penalty, and a 52-week penalty disqualification from future benefits.<sup>4</sup> Order No. 25-UI-314774 is **adopted**. *See* ORS 657.275(2).

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<sup>3</sup> Claimant also asked EAB to order the Department to produce additional materials, such as call recordings. Claimant’s January 9, 2026 Written Argument at 2. EAB does not have the authority to order the Department to produce information to a party.

<sup>4</sup> On December 9, 2025, ALJ Janzen issued Order No. 25-UI-313390, concluding that the Department lacked jurisdiction to assess the \$9,430 PUA overpayment and the \$10,200 FPUC overpayment set forth in the January 27, 2023 PUA overpayment decision, meaning claimant was not liable for those overpayments. Order No. 25-UI-313390 was not appealed and became final on December 29, 2025. As claimant testified that she made some repayments, and the combined effect of Order No. 25-UI-313390 and this decision is that claimant is not liable for the PUA and accompanying FPUC overpayments

**DECISION:** Order No. 25-UI-314774 is affirmed.

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

**DATE of Service:** February 13, 2026

**NOTE:** You may appeal this decision by filing a Petition for Judicial Review with the Oregon Court of Appeals **within 30 days of the date of service stated above.** See ORS 657.282. For forms and information, visit <https://www.courts.oregon.gov/courts/appellate/forms/Pages/appeal.aspx> and choose the appropriate form under “File a Petition for Judicial Review.” You may also contact the Court of Appeals by telephone at (503) 986-5555, by fax at (503) 986-5560, or by mail at 1163 State Street, Salem, Oregon 97301.

**Please help us improve our service by completing an online customer service survey.** To complete the survey, please go to <https://www.surveygizmo.com/s3/5552642/EAB-Customer-Service-Survey>. If you are unable to complete the survey online and wish to have a paper copy of the survey, please contact our office.

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but is liable for the PEUC and accompanying FPUC overpayments, claimant may wish to ask for an accounting from the Department to determine the amounts she currently owes, if any. See December 17, 2025 Transcript at 9.



# 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**

ទោរទៅ – តម្រូវការនេះមិនមែនជាភារកិច្ចរបស់យើងទេ បើសិនជាលោកអ្នកមិនយល់ស្របចំពោះសេចក្តីសម្រេចនេះទេ លោកអ្នកអាចដាក់ពាក្យប្តឹងសុំឲ្យមានការពិនិត្យរឿងក្តីឡើងវិញជាមួយតុលាការឧទ្ធរណ៍រដ្ឋ Oregon ដោយអនុវត្តតាមសេចក្តីណែនាំដែលសរសេរនៅខាងចុងបញ្ចប់នៃសេចក្តីសម្រេចនេះ។

**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 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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The Oregon Employment Department is an equal opportunity employer/program. Auxiliary aids and services are available upon request to individuals with disabilities. Language assistance is available to persons with limited English proficiency at no cost.

El Departamento de Empleo de Oregon es un programa que respeta la igualdad de oportunidades. Disponemos de servicios o ayudas auxiliares, formatos alternos y asistencia de idiomas para personas con discapacidades o conocimiento limitado del inglés, a pedido y sin costo.