

**EMPLOYMENT APPEALS BOARD DECISION**  
**2026-EAB-0044**

*Order No. 25-UI-315232 ~ Reversed & Remanded*  
*Order No. 25-UI-315234 ~ Dismissed ~ No Justiciable Controversy*

**PROCEDURAL HISTORY:** On February 3, 2021, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant voluntarily quit work without good cause and was therefore disqualified from receiving unemployment insurance benefits effective December 13, 2020 (decision # 103802). On February 23, 2021, decision # 103802 became final without claimant having filed a request for hearing. On April 1, 2022, the Department served notice of an administrative decision, based in part on decision # 103802, concluding that claimant received benefits to which they were not entitled and assessing an overpayment of \$810 in Pandemic Emergency Unemployment Compensation (PEUC) benefits that claimant was liable to repay to the Department (decision # 152351). On April 21, 2022, decision # 152351 became final without claimant having filed a request for hearing.<sup>1</sup> On February 27, 2025, claimant filed late requests for hearing on decisions # 103802 and 152351. ALJ Kangas considered the requests, and on December 23, 2025 issued Orders No. 25-UI-315232 and 25-UI-315234, dismissing claimant's requests for hearing on decisions # 103802 and 152351, respectively, as late, subject to claimant's right to renew the requests by responding to an appellant questionnaire by January 6, 2026. On January 8, 2026, claimant filed applications for review of Orders No. 25-UI-315232 and 25-UI-315234 with the Employment Appeals Board (EAB).

EAB combined its review of Orders No. 25-UI-315232 and 25-UI-315234 under OAR 471-041-0095 (October 29, 2006). For case-tracking purposes, this decision is being issued in duplicate (EAB Decisions 2026-EAB-0044 and 2026-EAB-0045).

**EVIDENTIARY MATTER:** EAB has considered additional evidence when reaching this decision under OAR 471-041-0090(1) (May 13, 2019). The additional evidence is the written statements included with claimant's applications for review, 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, saying why they object, within ten days of EAB mailing this decision.

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<sup>1</sup> Department records show that on March 25, 2025, the overpayment was cancelled and claimant is no longer liable to repay it. However, no written administrative decision was issued formally amending or cancelling decision # 152351.

OAR 471-041-0090(2). Unless EAB receives and agrees with the objection, the exhibit will remain in the record.

**FINDINGS OF FACT:** (1) Decision # 103802, mailed to claimant's address on file with the Department on February 3, 2021, 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 February 23, 2021." Order No. 25-UI-315232 Exhibit 1 at 2.

(2) Decision # 152351, mailed to claimant's address on file with the Department on April 1, 2022, stated "[Y]ou have the right to appeal this decision. Any appeal from this decision must be filed on or before April 21, 2022 to be timely." Order No. 25-UI-315234 Exhibit 1 at 2. Decision # 152351 assessed an \$810 overpayment of PEUC benefits that claimant was liable to repay to the Department.

(3) On February 27, 2025, claimant filed late requests for hearing on decisions # 103802 and 152351.

(4) On March 25, 2025, the Department cancelled the \$810 PEUC overpayment assessed in decision # 152351 because the decision amended earlier administrative decisions allowing benefits more than one year after those earlier decisions had been issued.<sup>2</sup> See ORS 657.267(4).

**CONCLUSIONS AND REASONS:** Order No. 25-UI-315232 is set aside and the matter remanded for a hearing to determine whether claimant's late request for hearing should be allowed and, if so, the merits of decision # 103802. Claimant's application for review of Order No. 25-UI-315234 presents no justiciable controversy and is dismissed.

**Late Request for Hearing on Decision # 103802.** 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 OAH of an updated address while the person is claiming benefits or if the person knows, or reasonably should know, of a pending appeal.

The request for hearing on decision # 103802 was due by February 23, 2021. Claimant's request for hearing was filed on February 27, 2025, and was therefore late. In statements included with the applications for review, claimant wrote, "I was not notified about any of this stuff," and that they have not lived in Oregon since "late 2020" or "early 2021." EAB Exhibit 1 at 1-2. While decision # 103802 was not mailed to an Oregon address, the statement suggests that claimant may not have received it when it was mailed, which may have been a factor beyond claimant's reasonable control that prevented

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<sup>2</sup> EAB has taken notice of this fact which is contained in Employment Department records. 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.

timely filing of a request for hearing. Further development of the record is warranted to determine whether claimant's late request for hearing on decision # 103802 should be allowed.<sup>3</sup>

On remand, inquiry should be made into whether claimant received decision # 103802 when it was mailed and, if not, whether the failure to receive it was a factor beyond claimant's reasonable control. Inquiry should include whether the decision was mailed to the correct address and, if not, whether claimant moved at a time they were claiming benefits or knew of a pending appeal and failed to update their address with the Department. If good cause is found to extend the filing deadline, further inquiry should be made to determine whether the late request for hearing was filed within a seven-day "reasonable time" after the factors that prevented timely filing ended. Such inquiry should include when claimant learned of decision # 103802 and the right to file a late request for hearing on it, and if claimant was unaware of decision # 103802 prior to the timely filing deadline.

For these reasons, Order No. 25-UI-315232 is set aside and the matter remanded for a hearing to determine whether claimant's late request for hearing should be allowed and, if so, the merits of decision # 103802.

**Application for Review of Order No. 25-UI-315234.** Oregon courts follow the principle that a review on appeal may only be provided for justiciable controversies. *See, e.g., Gortmaker v. Seaton*, 252 Or. 440, 442, 450 P.2d 547 (1969). A justiciable controversy exists when the interests of the parties to the action conflict with each other, and the appeal will have some practical effect on the rights of the parties to the controversy. *Barcik v. Kubiacyk*, 321 Or 174, 895 P.2d 765 (1995). To show a practical effect on their rights, an appellant must seek "substantive relief" through their appeal. *Krisor v. Henry*, 256 Or. App. 56, 300 P.3d 199 (Or. Ct. App. 2013).

Claimant requested review of an order dismissing the late request for hearing on decision # 152351, which assessed an overpayment of \$810 in PEUC benefits that claimant was liable to repay to the Department. However, before Order No. 25-UI-315234 was issued, the Department cancelled the overpayment, citing a lack of authority under ORS 657.267(4) to amend earlier administrative decisions allowing benefits due to the passage of time. Claimant is therefore no longer liable to repay the overpayment.<sup>4</sup> As such, review of Order No. 25-UI-315234, or a hearing on decision # 103802, would not entitle claimant to further relief in this matter. Because EAB's review of this matter could not provide substantive relief to the appellant, such review would have no practical effect on the appellant's rights. Accordingly, there is no justiciable controversy before EAB based upon claimant's application for review. Because it presents no justiciable controversy, the application for review of Order No. 25-UI-315234 is dismissed and Order No. 25-UI-315234 remains undisturbed.

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<sup>3</sup> Statements included with claimant's applications for review suggest that claimant may have filed the late request for hearing on decision # 103802 primarily or exclusively to contest the \$810 PEUC overpayment assessed in decision # 152351. As that overpayment was cancelled by the Department and claimant is no longer liable to repay it, claimant could withdraw the request for hearing if satisfied with that outcome by contacting the Office of Administrative Hearings (OAH). If the late request for hearing were withdrawn, claimant's disqualification from benefits imposed in decision # 103802, effective December 13, 2020 and until requalified under law, would remain undisturbed. This disqualification may have impacted two weekly claims for Pandemic Unemployment Assistance (PUA) benefits in March 2021 that were not paid.

<sup>4</sup> Claimant may request reconsideration of EAB's decision under OAR 471-041-0145(1) (May 13, 2019) if this is inaccurate, or if the Department later asserts that claimant is liable for the overpayment.

**DECISION:** Order No. 25-UI-315232 is set aside, and the matter remanded for further proceedings consistent with this order. Claimant's application for review of Order No. 25-UI-315234 is dismissed.

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

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

**NOTE:** The failure of any party to appear at the hearing on remand will not reinstate Order No. 25-UI-315232 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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