

**EMPLOYMENT APPEALS BOARD DECISION**  
**2026-EAB-0111**

*Reversed & Remanded*

**PROCEDURAL HISTORY:** On December 1, 2025, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant was entitled to an extension of their base year from July 1, 2024 through June 30, 2025 (third quarter 2024 through second quarter 2025), to April 1, 2024 through June 30, 2025 (second quarter 2024 through second quarter 2025) (decision # L0014369350). On December 22, 2025, decision # L0014369350 became final without claimant having filed a request for hearing. On January 11, 2026, claimant filed a late request for hearing.

ALJ Kangas considered claimant's request, and, on January 15, 2026, issued Order No. 26-UI-317151, dismissing claimant's late request for hearing on the basis that the hearing request did not present a justiciable controversy because decision # L0014369350 was favorable to claimant. On February 3, 2026, claimant filed an application for review of Order No. 26-UI-317151 with the Employment Appeals Board (EAB).

**WRITTEN ARGUMENT:** Claimant submitted written arguments on February 3 and February 17, 2026. EAB did not consider claimant's arguments because they were not relevant and material to EAB's determination of whether claimant's late request for hearing should be allowed. Though the information contained in the arguments is relevant to the base year extension issue, the threshold issue in this case is the timeliness of claimant's request for hearing on decision # L0014369350. ORS 657.275(2) and OAR 471-041-0090(1)(b)(A) (May 13, 2019).

Claimant may offer the information contained in their written arguments into evidence at the remand hearing. At that time, the ALJ will determine if the new information will be admitted into the record. Claimant must follow the instructions on the notice of the remand hearing about documents they wish to have considered at the hearing. These instructions will direct the parties to provide copies of such documents to the ALJ and the other parties before the hearing at their addresses on the certificate of mailing for the notice of hearing.

**FINDINGS OF FACT:** (1) In early October 2025, claimant filed an initial claim for unemployment insurance benefits. The Department determined that claimant had a monetarily valid claim for benefits

with a base year of the third quarter 2024, the fourth quarter 2024, the first quarter 2025, and the second quarter 2025. Thereafter, claimant requested that the Department extend their base year, asserting that they were incapable of work during the greater part of one of their base year quarters.<sup>1</sup>

(2) The Department granted this request by issuing decision # L0014369350. Decision # L0014369350, issued December 1, 2025, concluded that claimant's base year was extended by an additional calendar quarter, to include the second quarter 2024, because claimant showed that they were incapable of work during the greater part of a calendar quarter of their base year. Decision # L0014369350 therefore extended claimant's base year from July 1, 2024 through June 30, 2025 (third quarter 2024 through second quarter 2025), to April 1, 2024 through June 30, 2025 (second quarter 2024 through second quarter 2025). By granting the base year extension, the Department increased claimant's maximum benefit amount and weekly benefit amount.

(3) Decision # L0014369350 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 **December 22, 2025.**" Exhibit 1 at 2. (emphasis in original).

(4) On December 22, 2025 decision # L0014369350 became final without claimant having filed a request for hearing. On January 11, 2026, claimant filed a late request for hearing.

**CONCLUSIONS AND REASONS:** Order No. 26-UI-317151 improperly dismissed this appeal as non-justiciable. Order No. 26-UI-317151 is reversed and the matter remanded for a hearing on whether claimant's late request for hearing on decision # L0014369350 should be allowed and, if so, the merits of that decision.

**Appeal Improperly Dismissed as a Non-Justiciable Controversy.** Order No. 26-UI-317151 dismissed this appeal as non-justiciable. The issue presented by this appeal is a regular base year extension, which is governed by ORS 657.170(1). That section provides as follows:

If the Director of the Employment Department finds that during the base year of the individual any individual has been incapable of work during the greater part of any calendar quarter, such base year shall be extended a calendar quarter. Except as provided in subsection (2) of this section, no such extension of an individual's base year shall exceed four calendar quarters.

The Department uses the following guidance to interpret ORS 657.170(1):

If the claimant was incapable of performing any gainful work during the greater part of any calendar quarter in the base year, we may extend the base year backward one calendar quarter for each such calendar quarter. Any extended quarter(s) supplement (rather than replace) the original base year hours and wages. The most recent quarter prior to the original base year is used first. A claimant cannot choose which quarters to

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<sup>1</sup> 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 fact(s) will remain in the record.

use for the base year extension. A regular extension cannot exceed four calendar quarters. It is possible through a regular base year extension to have an eight-quarter base year. The purpose of a regular base year extension is to make a non-valid claim valid or to increase the amount of a claimant's benefit entitlement.

Oregon Employment Department, Unemployment Insurance Policy Guide 39-40 (Dec. 2025).

What occurred in this case is the Department determined that claimant had a base year of the third quarter 2024, the fourth quarter 2024, the first quarter 2025, and the second quarter 2025. Thereafter, claimant requested that the Department extend their base year, asserting that they were incapable of work during the greater part of one of their base year quarters. Claimant apparently proved this as to one of their base year quarters to the satisfaction of the Department, because, via decision # L0014369350, the Department extended the base year backward one quarter to include the second quarter 2024, which gave claimant a five-quarter base year, and increased the amount of claimant's benefit entitlement. However, it is possible through a regular base year extension for a claimant to have as much as an eight-quarter base year. The theory of claimant's appeal is that the Department should have deemed them incapable of work during the greater part of another of their original calendar quarters,<sup>2</sup> and therefore should have extended their base year backward one more quarter, to include the first quarter 2024. Doing so would give claimant a six-quarter base year, and increase the amount of their benefit entitlement to an amount higher than it had been increased by decision # L0014369350.

Accordingly, the order under review erred in concluding that claimant's appeal should be dismissed because it presented a non-justiciable controversy. The order reasoned that doing so was warranted because decision # L0014369350 was "not adverse to the claimant." Order No. 26-UI-317151 at 2. While it is true that decision # L0014369350 provided claimant with a favorable result, if claimant's late request for hearing is allowed, they are entitled to a hearing on the merits to seek a result that is even more favorable to them. To apply the non-justiciability doctrine to this appeal was improper. It is advisable for OAH to refrain from applying the non-justiciability doctrine to cases in which the threshold issue at hand is the timeliness of the appeal. Furthermore, under no circumstances should the non-justiciability doctrine be used in cases in which a party receives from the Department less than the maximum relief possible.

**Late Request for Hearing.** 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 a request for hearing on decision # L0014369350 was December 22, 2025. Because claimant did not file their request for hearing until January 11, 2026, the request for hearing was late.

On remand, the ALJ should develop the record to determine whether claimant established good cause to extend the deadline to appeal decision # L0014369350 and whether they filed their appeal within a

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<sup>2</sup> See Exhibit 2 at 4 ("I would like to talk with someone about redetermining my base year quarters. For the quarter of Apr – June 2025 my income was greatly effected [*sic*] by medical issues causing me to miss work[.]").

reasonable time. To this end, the ALJ should ask claimant when they received decision # L0014369350, whether they read and disagreed with it, and why they did not request a hearing on the decision until January 11, 2026. The ALJ should inquire whether a factor beyond claimant's reasonable control or an excusable mistake prevented them from filing a hearing request by the December 22, 2025 deadline. If the record on remand shows claimant had good cause to extend the deadline to file because of factors beyond their reasonable control or an excusable mistake, the ALJ should ask questions to determine when such circumstances ended, and whether claimant file their hearing request within a seven-day "reasonable time" of when the circumstances ended.

Order No. 26-UI-317151 is reversed and the matter remanded for a hearing on whether claimant's late request for hearing on decision # L0014369350 should be allowed and, if so, the merits of decision # L0014369350.

On remand, it may be beneficial for the Department to assign a representative to testify at the hearing, should the matter reach a hearing on the merits.

**DECISION:** Order No. 26-UI-317151 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:** March 16, 2026

**NOTE:** The failure of any party to appear at the hearing on remand will not reinstate Order No. 26-UI-317151 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 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 دستور العمل موجود در پایان آن، از دادگاه تجدید نظر اورگان درخواست تجدید نظر کنید.

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