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State of Oregon
Employment Appeals Board
875 Union St. N.E.
Salem, OR 97311

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<p>EMPLOYMENT APPEALS BOARD DECISION 2026-EAB-0120-R</p>
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Requests for Reconsideration Allowed
EAB Decisions 2026-EAB-0119 and 2026-EAB-0120 Reversed on Reconsideration
Orders No. 26-UI-318602 and 26-UI-318599 Reversed and Remanded

PROCEDURAL HISTORY AND FINDINGS OF FACT: On October 28, 2021, 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 effective March 22, 2020. On November 3, 2021, the Department served notice of an administrative decision, based in part on the October 28, 2021 PUA determination, concluding that claimant willfully made a misrepresentation and failed to report a material fact to obtain benefits, and assessing a \$14,930 overpayment in combined PUA, Lost Wages Assistance (LWA), and Federal Pandemic Unemployment Compensation (FPUC) benefits that claimant was required to repay to the Department, and a \$2,059.50 monetary penalty. On November 17, 2021 and November 23, 2021, the October 28, 2021 PUA determination and the November 3, 2021 overpayment decision, respectively, became final without claimant having filed a request for hearing on either decision.

On April 29, 2022, claimant filed a late request for hearing on each decision. ALJ Kangas considered the requests, and on August 3, 2022 issued Orders No. 22-UI-199599 and 22-UI-199592, dismissing claimant's requests for hearing on the October 28, 2021 PUA determination and the November 3, 2021 overpayment decision, respectively, as late, subject to claimant's right to renew the requests by responding to an appellant questionnaire by August 17, 2022. On August 23, 2022, Orders No. 22-UI-199599 and 22-UI-199592 became final without claimant having filed an appellant questionnaire response or an application for review with the Employment Appeals Board (EAB).

On January 12, 2026, claimant filed a late appellant questionnaire response.¹ ALJ Kangas reviewed the response, and on January 29, 2026 issued Orders No. 26-UI-318602 and 26-UI-318599, cancelling

¹ The filing was in the form of a late application for review of Order No. 22-UI-199592 filed with EAB on January 12, 2026, an email claimant sent to EAB the same day, and a related email EAB forwarded to the Office of Administrative Hearings (OAH) the following day. Exhibit 3 at 1-3. These documents contained statements that could be construed as explaining why either the requests for hearing or an appellant questionnaire response, or both, were not timely filed. As such, the filing was treated collectively as a late appellant questionnaire response and forwarded to OAH.

Orders No. 22-UI-199599 and 22-UI-199592, declining to consider claimant's appellant questionnaire response because it was filed late, and re-dismissing the late requests for hearing on the October 28, 2021 PUA determination and the November 3, 2021 overpayment decision, respectively. On February 4, 2026, claimant filed timely applications for review of Orders No. 26-UI-318602 and 26-UI-318599 with EAB.

EAB combined its review of Orders No. 26-UI-318602 and 26-UI-318599 under OAR 471-041-0095 (October 29, 2006). On March 19, 2026, EAB issued EAB Decisions 2026-EAB-0119 and 2026-EAB-0120, affirming without prejudice Orders No. 26-UI-318602 and 26-UI-318599, respectively, and noting claimant's right to request reconsideration and provide additional evidence to EAB regarding the reasons for filing the requests for hearing late. Also on March 19, 2026, claimant filed requests for reconsideration of EAB Decisions 2026-EAB-0119 and 2026-EAB-0120. This decision is made under EAB's authority from ORS 657.290(3).

For case-tracking purposes, this decision is being issued in duplicate (EAB Decisions 2026-EAB-0119-R and 2026-EAB-0120-R).

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 questionnaire response included with claimant's requests for reconsideration, has been marked as EAB Exhibit 1, and provided to the parties with this decision.² 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 exhibit will remain in the record.

CONCLUSIONS AND REASONS: Claimant's requests for reconsideration are allowed. EAB Decisions 2026-EAB-0119 and 2026-EAB-0120 are reversed on reconsideration. Orders No. 26-UI-318602 and 26-UI-318599 are set aside, and the matters remanded for hearings to determine whether claimant's late requests for hearing on the October 28, 2021 PUA determination and the November 3, 2021 overpayment decision should be allowed and, if so in either case, the merits of that decision.

Reconsideration. ORS 657.290(3) permits the Employment Appeals Board to reconsider any past decision of the Employment Appeals Board, including "the making of a new decision to the extent necessary and appropriate for the correction of previous error of fact or law." "Any party may request reconsideration to correct an error of material fact or law, or to explain any unexplained inconsistency with Employment Department rule, or officially stated Employment Department position, or prior Employment Department practice." OAR 471-041-0145(1) (May 13, 2019). The request will be dismissed unless it says that a copy of the request was given to the other parties, and unless it is filed within 20 days after the decision the party wants to be reconsidered was mailed. OAR 471-041-0145(2).

² Claimant demonstrated that factors beyond their reasonable control prevented them from offering the information regarding why their requests for hearing were filed late while these matters were pending at OAH in August 2022. *See* EAB Exhibit 1 at 2 (claimant suggesting they did not receive Orders No. 22-UI-199599 and 22-UI-199592 when they were mailed, and thereafter experienced housing and legal problems through 2026).

Claimant filed requests for reconsideration of EAB Decisions 2026-EAB-0119 and 2026-EAB-0120 that met the requirements of OAR 471-041-0145(2), and the requests are therefore allowed. For the reasons explained below, EAB Decisions 2026-EAB-0119 and 2026-EAB-0120 are reversed on reconsideration.

Late Requests 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 requests for hearing on the October 28, 2021 PUA determination and the November 3, 2021 overpayment decision were due by November 17, 2021 and November 23, 2021, respectively. Claimant’s requests for hearing were filed on April 29, 2022, and were therefore late.

Claimant wrote in the questionnaire response submitted with the requests for reconsideration that they did not “receive or meaningfully review” the October 28, 2021 PUA determination and the November 3, 2021 overpayment decision when they were mailed. EAB Exhibit 1 at 1. If claimant failed to receive either administrative decision prior to the deadline for requesting a hearing on that decision, that may have been a factor beyond claimant’s reasonable control that prevented timely filing of the requests for hearing. Further development of the record is therefore warranted.

On remand, inquiry should be made into whether claimant received the October 28, 2021 PUA determination and the November 3, 2021 overpayment decision when they were mailed and, if not, the possible reasons they were not received; how and when claimant came to learn of the administrative decisions and the right to file requests for hearing on them; and whether any other factors prevented timely filing of the requests for hearing.

Furthermore, if good cause is found to extend either filing deadline, additional inquiry should be made into when the factors that prevented timely filing ended, and whether the late requests for hearing were filed within a “reasonable time” thereafter. In response to a question regarding why they filed the late requests for hearing on April 29, 2022, rather than an earlier date, claimant wrote, “I became partially aware that there may have been an issue with my unemployment benefits and attempted to take action as soon as I was able under unstable conditions.” EAB Exhibit 1 at 3. Inquiry should therefore include what “issue” claimant was referring to regarding the benefit claim; when claimant became aware of the “issue,” and what, if any, efforts were made to address it prior to April 29, 2022; what specific “unstable conditions” claimant was experiencing at the time they learned of the administrative decisions and how the conditions prevented them from filing requests for hearing; and the timing and nature of changes to those conditions such that claimant was able to file late requests for hearing on April 29, 2022.

For these reasons, EAB Decisions 2026-EAB-0119 and 2026-EAB-0120 are reversed on reconsideration, Orders No. 26-UI-318602 and 26-UI-318599 are reversed, and the matters remanded for hearings to determine whether claimant’s late requests for hearing on the October 28, 2021 PUA determination and the November 3, 2021 overpayment decision should be allowed and, if so in either case, the merits of that decision.

DECISION: EAB Decisions 2026-EAB-0119 and 2026-EAB-0120 are reversed on reconsideration. Orders No. 26-UI-318602 and 26-UI-318599 are set aside, and the matters remanded for further proceedings.

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

DATE of Service: April 30, 2026

NOTE: The failure of any party to appear at the hearing on remand will not reinstate Orders No. 26-UI-318602 or 26-UI-318599 or return these matters to EAB. Only a timely application for review of the orders mailed to the parties after the remand hearing will return those 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

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 محكمة 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.

Employment Appeals Board - 875 Union Street NE | Salem, OR 97311
 Phone: (503) 378-2077 | 1-800-734-6949 | Fax: (503) 378-2129 | TDD: 711
 Email: appealsboard@employ.oregon.gov
 Website: www.Oregon.gov/employ/pages/employment-appeals-board.aspx

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