

**EMPLOYMENT APPEALS BOARD DECISION**  
**2026-EAB-0126**

*Late Request for Hearing  
Reversed & Remanded*

**PROCEDURAL HISTORY & FINDINGS OF FACT:** On April 19, 2022, 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 \$1,892 overpayment that claimant was required to repay to the Department (decision # 113702). On May 9, 2022, decision # 113702 became final without claimant having filed a request for hearing. On December 5, 2025, claimant filed a late request for hearing. ALJ Kangas considered the request, and on December 15, 2025 issued Order No. 25-UI-314301, dismissing the request as late, subject to claimant's right to renew the request by responding to an appellant questionnaire by December 29, 2025. On December 30, 2025, claimant filed a late appellant questionnaire response. On February 4, 2026, ALJ Kangas issued a Final Order of Dismissal, Order No. 26-UI-319242, concluding that claimant's appellant questionnaire response was late and would not be considered, cancelling Order No. 25-UI-314301 and re-dismissing claimant's late request for hearing on decision # 113702. On February 7, 2025, claimant filed an application for review of Order No. 26-UI-319242 with the Employment Appeals Board (EAB).

**CONCLUSIONS AND REASONS:** Order No. 26-UI-319242 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 # 113702.

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 decision # 113702 was due by May 9, 2022. Claimant's request for hearing was filed on December 5, 2025, and was therefore late. Claimant wrote in support of their late request for hearing "I never received any mailed or electronic notice informing me that an overpayment decision

had been issued. The first time I became aware of any alleged overpayment was when my wages suddenly began being garnished. This garnishment is what triggered my own investigation.” Exhibit 2 at 7. Claimant noted that decision # 113702 was sent to an outdated address. Exhibit 2 at 7. Claimant further stated, “During a recorded phone call on Wednesday, November 12, 2025, at 3:28 PM, I was informed for the first time that an overpayment decision existed.” Exhibit 2 at 9. Claimant further states, “As soon as I learned of the situation through wage garnishment and my own investigation, I contacted the Department, requested documentation, and filed this appeal without delay.” Exhibit 2 at 9.

If claimant filed their request for hearing late due to not having timely received decision # 113702 because it was sent to an outdated address, claimant may have failed to file a timely request for hearing due to factors beyond their control. Moreover, claimant states that “as soon” as they investigated and learned of the decision they filed the appeal “without delay.” Exhibit 2 at 9. If claimant was delayed in filing the request for hearing because they were delayed in receiving a copy of decision # 113702 or were confused about what their appeal rights were or how to appeal over three years after the decision was issued or because they did not receive a copy of the decision, they might have filed the request late due to an excusable mistake. Further development of the record is warranted to determine whether claimant’s late request for hearing should be allowed.

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. On remand, the ALJ should inquire as to whether claimant was claiming benefits at the time decision # 113702 was issued or was otherwise under an obligation to inform the Department of their updated address. Inquiry should also be made as to when claimant first received a copy of decision # 113702 and learned of their appeal rights and how to appeal on decision # 113702. Further inquiry should be made as to what efforts claimant made to file the request for hearing once they learned of their appeal rights; what ultimately led them to file the request when they did; and any other necessary inquiry to determine whether claimant filed within a “reasonable time” after the factors that prevented timely filing ended.

For these reasons, Order No. 26-UI-319242 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 # 113702.

**DECISION:** Order No. 26-UI-319242 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 12, 2026

**NOTE:** The failure of any party to appear at the hearing on remand will not reinstate Order No. 26-UI-319242 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**

ទោរទៅ – តម្រូវការនេះមិនមែនជាភារកិច្ចរបស់អ្នកទេ វាគឺជាភារកិច្ចរបស់អ្នកដទៃទៀត។ បើសិនជាអ្នកមិនយល់ស្របចំពោះសេចក្តីសម្រេចនេះទេ លោកអ្នកអាចដាក់ពាក្យប្តឹងសុំឲ្យមានការពិនិត្យរឿងក្តីឡើងវិញជាមួយតុលាការឧទ្ធរណ៍រដ្ឋ Oregon ដោយអនុវត្តតាមសេចក្តីណែនាំដែលសរសេរនៅខាងចុងបញ្ចប់នៃសេចក្តីសម្រេចនេះ។

**Arabic**

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**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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