

EMPLOYMENT APPEALS BOARD DECISION
2026-EAB-0166

Orders No. 26-UI-319265 and 26-UI-319246 Reversed & Remanded

PROCEDURAL HISTORY AND FINDINGS OF FACT: On May 2, 2017, 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 \$3,168 overpayment that claimant was required to repay to the Department, a \$950.40 monetary penalty, and a 23-week penalty disqualification from future benefits (decision # 202740). On May 22, 2017, decision # 202740 became final without claimant having filed a request for hearing. On June 27, 2017, 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 an \$892 overpayment that claimant was required to repay to the Department, a \$267.60 monetary penalty, and a 6-week penalty disqualification from future benefits (decision # 200032). On July 17, 2017, decision # 200032 became final without claimant having filed a request for hearing. On November 17, 2025, claimant filed a late request for hearing on each decision.

ALJ Kangas considered the requests, and on December 30, 2025 and December 31, 2025 issued Orders No. 25-UI-315734 and 25-UI-315747, dismissing claimant's late requests for hearing on decisions # 200032 and 202740, respectively, as late, subject to claimant's right to renew the requests by responding to appellant questionnaires by January 13, 2026 and January 14, 2026, respectively. On January 20, 2026, Orders No. 25-UI-315734 and 25-UI-315747 became final without claimant having filed an appellant questionnaire response or an application for review with the Employment Appeals Board (EAB).

On January 29, 2026, claimant filed a late appellant questionnaire response. ALJ Kangas reviewed the response, and on February 4, 2026 issued Orders No. 26-UI-319265 and 26-UI-319246, canceling Orders No. 25-UI-315734 and 25-UI-315747, declining to consider claimant's appellant questionnaire response because it was filed late, and re-dismissing claimant's late requests for hearing on decisions # 200032 and 202740, respectively. On February 17, 2026, claimant filed timely applications for review of Orders No. 26-UI-319265 and 26-UI-319246 with EAB.

EAB combined its review of Orders No. 26-UI-319265 and 26-UI-319246 under OAR 471-041-0095 (October 29, 2006). For case-tracking purposes, this decision is being issued in duplicate (EAB Decisions 2026-EAB-0165 and 2026-EAB-0166).

EVIDENTIARY MATTER: EAB has considered additional evidence when reaching this decision under OAR 471-041-0090(1) (May 13, 2019). The additional evidence is an email claimant sent EAB regarding the applications for review, marked as EAB Exhibit 1, and a May 30, 2017 letter from the Department to claimant entitled “Payment Plan,” marked as EAB Exhibit 2. Copies of these exhibits are 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. OAR 471-041-0090(2). Unless EAB receives and agrees with the objection, the exhibits will remain in the record.

Claimant’s appellant questionnaire response was not filed by the date Orders No. 25-UI-315734 and 25-UI-315747 became final, January 20, 2026. The late questionnaire response was marked for identification as Exhibit 3 but was not considered as evidence by the ALJ and, as such, is not evidence in the hearing record. However, the record shows that factors or circumstances beyond claimant’s reasonable control prevented them from filing the appellant questionnaire response prior to Orders No. 25-UI-315734 and 25-UI-315747 becoming final. Claimant, who lives in Missouri, wrote regarding the late questionnaire response, “I sent in as soon as I received. We had snow storm delays in the mail. You received as soon as possible.” EAB Exhibit 1 at 1. Claimant’s late receipt of Orders No. 25-UI-315734 and 25-UI-315747 due to inclement weather was, more likely than not, a factor beyond their reasonable control that prevented timely filing of a questionnaire response. Additionally, the information in claimant’s appellant questionnaire response is relevant and material to the determination of whether their late requests for hearing should be allowed. Accordingly, under ORS 657.275(2) and OAR 471-041-0090 (May 13, 2019), EAB **did** consider the late appellant questionnaire response when reaching this decision.

CONCLUSIONS AND REASONS: Orders No. 26-UI-319265 and 26-UI-319246 are set aside and the matters remanded for a hearing to determine whether claimant’s late requests for hearing should be allowed and, if so, the merits of decisions # 200032 and 202740.

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 decisions # 202740 and 200032 were due by May 22, 2017 and July 17, 2017, respectively. Claimant’s requests for hearing were filed on November 17, 2025, and were therefore late. In the appellant questionnaire response, claimant wrote regarding the administrative decisions, “I never heard anything about any of this until December 2025,” and “I never received any notices or any contact before December 2025.” Exhibit 3 at 5-6. If claimant did not receive decisions # 202740 and 200032 when they were mailed, factors beyond claimant’s reasonable control may have prevented timely filing of the requests for hearing. Further development of the record is therefore warranted.

On remand, inquiry should be made into whether and when claimant received decisions # 202740 and 200032 or otherwise learned of them and the right to appeal them. If receipt of the decisions was delayed, further inquiry should be made into the potential causes of the delay. The inquiry should also include whether any other factors prevented timely filing of the requests for hearing.

The Department's records suggest that at some point between May 2 and May 30, 2017, claimant proposed a repayment plan regarding the overpayment and monetary penalty assessed in decision # 202740, and that the Department agreed to the plan in writing on May 30, 2017. *See* EAB Exhibit 2 at 1. Inquiry should be made into whether this record is accurate and, if so, how it impacts claimant's recollection regarding awareness of the existence of the overpayments; why claimant sought the repayment agreement rather than requesting a hearing on decision # 202740; whether claimant made any payments pursuant to the agreement and, if so, when; and whether claimant or the Department sought to incorporate into the repayment agreement the overpayment and monetary penalty assessed in decision # 200032 after that decision was issued on June 27, 2017.

Furthermore, if good cause exists to extend either filing deadline, additional inquiry should be made to determine whether the associated late request for hearing was filed within a "reasonable time" after the factors that prevented filing of that request ended.

For these reasons, Orders No. 26-UI-319265 and 26-UI-319246 are set aside and the matters remanded for a hearing to determine whether claimant's late requests for hearing should be allowed and, if so, the merits of decisions # 200032 and 202740.

DECISION: Orders No. 26-UI-319265 and 26-UI-319246 are set aside, and these matters remanded for further proceedings consistent with this order.

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

DATE of Service: March 25, 2026

NOTE: The failure of any party to appear at the hearing on remand will not reinstate Orders No. 26-UI-319265 and 26-UI-319246 or return these matters to EAB. Only a timely application for review of the order mailed to the parties after the remand hearing will return that 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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