

EMPLOYMENT APPEALS BOARD DECISION
2026-EAB-0177

Reversed & Remanded

PROCEDURAL HISTORY AND FINDINGS OF FACT: On October 5, 2020, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant received benefits to which they were not entitled, and assessing an overpayment of \$309 in regular unemployment insurance benefits and \$600 in Federal Pandemic Unemployment Compensation (FPUC) benefits that claimant was required to repay to the Department (decision # 120251). On October 26, 2020, decision # 120251 became final without claimant having filed a request for hearing. On October 28, 2025, claimant filed a late request for hearing. ALJ Kangas considered claimant's request, and on November 13, 2025 issued Order No. 25-UI-310337, dismissing the request as late, subject to claimant's right to renew the request by responding to an appellant questionnaire by November 27, 2025. On December 3, 2025, claimant filed a late appellant questionnaire response. ALJ Kangas reviewed the response, and on February 4, 2026 issued Order No. 26-UI-319195, cancelling Order No. 25-UI-310337, declining to consider claimant's appellant questionnaire response because it was filed late, and re-dismissing claimant's late request for hearing on decision # 120251. On February 23, 2026, claimant filed an application for review of Order No. 26-UI-319195 with the Employment Appeals Board (EAB).

EVIDENTIARY MATTER: Claimant's appellant 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, claimant filed the appellant questionnaire response prior to Order No. 25-UI-310337 becoming final, and the information provided is relevant and material to the determination of whether claimant's late request 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: Order No. 26-UI-319195 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 # 120251.

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 # 120251 was due by October 26, 2020. Claimant’s request for hearing was filed on October 28, 2025, and was therefore late.¹ Claimant’s appellant questionnaire response suggested that they may not have received decision # 120251 in October 2020 when it was mailed, and learned about the overpayment years later when attempts were made to recover the overpayment through wage garnishment.² See Exhibit 3 at 2. Further development of the record is warranted to determine whether claimant’s late request for hearing should be allowed.

On remand, inquiry should be made into whether claimant failed to receive decision # 1202581 when it was mailed and, if so, the possible reasons for that failure; when claimant otherwise learned of decision # 1202581 and their right to file a late request for hearing on it; and whether any other factors prevented timely filing of a request for hearing. Furthermore, if good cause exists to extend the filing deadline, additional inquiry should be made into whether claimant filed the late request for hearing within a “reasonable time” after the factors that prevented timely filing ended.

DECISION: Order No. 26-UI-319195 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: April 3, 2026

NOTE: The failure of any party to appear at the hearing on remand will not reinstate Order No. 26-UI-319195 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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¹ ORS 657.310(2)(c) provides that claimant-caused non-fraud overpayments, such as the one alleged in decision # 120251, “may be collected for any week or weeks within five years following the week in which the decision establishing the erroneous payment became final.” As decision # 120251 became final on October 26, 2020, and claimant’s late request for hearing was filed five years and two days later, on October 28, 2025, it may be helpful to the parties on remand to determine whether the Department has ceased, or intends to cease, efforts to recover the overpayment.



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.

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