

EMPLOYMENT APPEALS BOARD DECISION
2026-EAB-0220

Late Applications for Review Allowed
Orders No. 26-UI-316827 and 26-UI-316824 Reversed & Remanded

PROCEDURAL HISTORY: On November 8, 2022, the Oregon Employment Department (the Department) served a Notice of Determination for Pandemic Unemployment Assistance (PUA) concluding that claimant was not eligible for PUA benefits effective November 8, 2020. On November 18, 2022, the Department served notice of an administrative decision, based in part on the November 8, 2022 PUA determination, concluding that claimant willfully made a misrepresentation and failed to report a material fact to obtain benefits, and assessing an overpayment of \$19,110 in combined PUA and Federal Pandemic Unemployment Compensation (FPUC) benefits that claimant was required to repay to the Department, as well as a \$2,866.50 monetary penalty. On November 28, 2022, the November 8, 2022 PUA determination became final without claimant having filed a request for hearing. On December 8, 2022, the November 18, 2022 overpayment decision became final without claimant having filed a request for hearing. On April 10, 2023, claimant filed late requests for hearing on both administrative decisions.

ALJ Kangas considered claimant's requests, and on August 15, 2023 issued Orders No. 23-UI-233215 and 23-UI-233214, dismissing claimant's requests for hearing on the November 8, 2022 PUA determination and the November 18, 2022 overpayment decision, respectively, as late, subject to claimant's right to renew the requests by responding to an appellant questionnaire by August 29, 2023. On September 5, 2023, Orders No. 23-UI-233215 and 23-UI-233214 became final without claimant having responded to the appellant questionnaire or filing applications for review with the Employment Appeals Board (EAB). On January 5, 2026, claimant filed a late response to the appellant questionnaire.

ALJ Kangas reviewed the response, and on January 13, 2026 issued Orders No. 26-UI-316827 and 26-UI-316824, canceling Orders No. 23-UI-233215 and 23-UI-233214, declining to consider claimant's appellant questionnaire response because it was filed late, and re-dismissing claimant's late requests for hearing on the November 8, 2022 PUA determination and the November 18, 2022 overpayment decision, respectively. On February 2, 2026, Orders No. 26-UI-316827 and 26-UI-316824 became final without claimant having filed applications for review with EAB. On March 4, 2026, claimant filed late applications for review of Orders No. 26-UI-316827 and 26-UI-316824 with EAB.

EAB combined its review of Orders No. 26-UI-316827 and 26-UI-316824 under OAR 471-041-0095 (October 29, 2006). For case-tracking purposes, this decision is being issued in duplicate (EAB Decisions 2026-EAB-0219 and 2026-EAB-0220).

EVIDENTIARY MATTERS: EAB has considered additional evidence when reaching this decision under OAR 471-041-0090(1) (May 13, 2019). The additional evidence consists of claimant’s written statement enclosed with the late applications for review, has been marked as EAB Exhibit 1, and 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 exhibit will remain in the record.

Claimant also included with the applications for review a three-page narrative and a picture of what appears to be business cards for claimant’s jewelry business. These documents are potentially relevant to the reasons that claimant failed to file timely requests for hearing and the merits of the underlying administrative decisions. EAB did not consider this information when reaching this decision because it was not submitted prior to the date on which Orders No. 23-UI-233215 and 23-UI-233214 became final and therefore was not considered by the ALJ when issuing those orders, and claimant did not show that factors or circumstances beyond their reasonable control prevented them from filing them with the appellant questionnaire response prior to Orders No. 23-UI-233215 and 23-UI-233214 becoming final. ORS 657.275(2) and OAR 471-041-0090.

Additionally, claimant’s appellant questionnaire response was not filed by September 5, 2023, the date Orders No. 23-UI-233215 and 23-UI-233214 became final. 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. Claimant did not show that factors or circumstances beyond their reasonable control prevented them from filing the appellant questionnaire response prior to Orders No. 23-UI-233215 and 23-UI-233214 becoming final. Accordingly, under ORS 657.275(2) and OAR 471-041-0090, EAB did not consider the late appellant questionnaire response when reaching this decision.

WRITTEN ARGUMENT: Claimant filed written arguments on March 6, 14, and 17, 2026. All three of claimant’s arguments contained new information, some of which pertained to why their requests for hearing were late. However, the arguments did not show that factors or circumstances beyond claimant’s reasonable control prevented them from offering the information into the record before the ALJ at the Office of Administrative Hearings (OAH) by timely responding to the appellant questionnaire. Under ORS 657.275(2) and OAR 471-041-0090, EAB did not consider claimant’s new information.

The parties may offer new information, such as that included in claimant’s written arguments, the appellant questionnaire response, or the documents enclosed with the applications for review, into evidence at the remand hearing. At that time, the ALJ will determine if the new information will be admitted into the record. The parties 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) The November 8, 2022 PUA determination, issued on November 8, 2022, stated, “You have the right to appeal this decision if you do not believe it is correct. Your request for appeal must be received by November 28, 2022.” Order No. 26-UI-316827, Exhibit 1 at 2.

(2) The November 18, 2022 overpayment decision, issued on November 18, 2022, stated, “If you do not agree with this decision, you may file an appeal. You must file your appeal from this decision on or before December 8, 2022 to be timely.” Order No. 26-UI-316824, Exhibit 1 at 1. That decision concluded that claimant had been ineligible for benefits they had claimed for the period of November 8, 2020 through September 4, 2021.

(3) On January 5, 2026, claimant filed a late response to the appellant questionnaire. On that response, claimant listed an address beginning with the street number 1430. Order No. 26-UI-316827, Exhibit 3 at 2.

(4) Order No. 26-UI-316827, mailed to claimant on January 13, 2026, stated, “You may appeal this decision by filing the attached form Application for Review with the Employment Appeals Board within 20 days of the date that this decision is mailed.” Order No. 26-UI-316827 at 2. Order No. 26-UI-316827 also stated on its Certificate of Mailing, “Any appeal from this Order must be filed on or before February 2, 2026 to be timely.”

(5) Order No. 26-UI-316824, mailed to claimant on January 13, 2026, stated, “You may appeal this decision by filing the attached form Application for Review with the Employment Appeals Board within 20 days of the date that this decision is mailed.” Order No. 26-UI-316824 at 2. Order No. 26-UI-316824 also stated on its Certificate of Mailing, “Any appeal from this Order must be filed on or before February 2, 2026 to be timely.”

(6) Orders No. 26-UI-316827 and 26-UI-316824 were both mailed to an address beginning with the street number 1515, which corresponded to the address to which Orders No. 23-UI-233215 and 23-UI-233214 had been mailed in 2023.

CONCLUSIONS AND REASONS: Claimant’s late applications for review of Orders No. 26-UI-316827 and 26-UI-316824 are allowed. Orders No. 26-UI-316827 and 26-UI-316824 are set aside, and these matters remanded for a hearing on whether claimant’s late requests for hearing on the November 8, 2022 PUA determination and the November 18, 2022 overpayment decision should be allowed and, if so, the merits of those decisions.

Late Applications for Review. An application for review is timely if it is filed within 20 days of the date that OAH mailed the order for which review is sought. ORS 657.270(6); OAR 471-041-0070(1) (May 13, 2019). The 20-day filing period may be extended a “reasonable time” upon a showing of “good cause.” ORS 657.875; OAR 471-041-0070(2). “Good cause” means that factors or circumstances beyond the applicant’s reasonable control prevented timely filing. OAR 471-041-0070(2)(a). A “reasonable time” is seven days after the circumstances that prevented the timely filing ended. OAR

471-041-0070(2)(b). A late application for review will be dismissed unless it includes a written statement describing the circumstances that prevented a timely filing. OAR 471-041-0070(3).

The applications for review of Orders No. 26-UI-316827 and 26-UI-316824 were due by February 2, 2026. Because claimant did not file their applications for review until March 4, 2026, the applications for review were late. However, claimant has shown good cause for filing the late applications for review.

On their statement enclosed with the applications for review, claimant explained that the late filings were due, in relevant part, to having moved six months prior and having “had everything forwarded.” EAB Exhibit 1 at 2. Claimant likewise stated in an email which preceded the application for review, “The court has been sending the paperwork to an old address.” EAB Exhibit 1 at 1. Further, claimant explained that they believed that they had good cause for filing the late applications for review because they “did not receive this information until [they] called [on March 4, 2026].” EAB Exhibit 1 at 2.

The record shows that claimant updated their address with OAH when claimant filed their response to the appellant questionnaire on January 5, 2026. Despite this, OAH mailed the orders under review to claimant’s previous address. Given that claimant indicated on their written statement that they had not received the information regarding the issuance of the orders under review until they called on March 4, 2026, the record shows that claimant most likely did not receive the orders under review at all due to OAH’s failure to update claimant’s address. This constituted a factor or circumstance beyond claimant’s reasonable control which prevented their timely filing. That factor or circumstance ended on the day that they learned of the issuance of the orders under review. Because claimant filed their late applications for review on the same day, they filed them within a reasonable time, and claimant’s late applications for review are therefore allowed.

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. 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.

The requests for hearing on the November 8, 2022 PUA determination and the November 18, 2022 overpayment decision were due by November 28, 2022 and December 8, 2022, respectively. Because claimant did not file their requests for hearing on either decision until April 10, 2023, the requests were late.

On a statement enclosed with their request for hearing, claimant explained that after having spoken to the Department investigator who issued the underlying administrative decisions in these matters, claimant tried “to get a letter of this [*sic*] decision for months” after having “moved a mile from where

[claimant was] living.” Order No. 26-UI-316827, Exhibit 2 at 2. Claimant likewise explained in the statement that they had “called the office today and they told [claimant] to appeal even though the investigator said in his email t[he] appeal date [was] over for [claimant].” Order No. 26-UI-316827, Exhibit 2 at 2.

The above explanations suggest that claimant may not have received either of the administrative decisions timely, or at all, because they had been mailed to a prior address. They further suggest that claimant may have learned of the outcomes of those decisions at some point prior to April 10, 2023, but was advised by a Department employee that they could no longer appeal the decisions. Both of these suggest that claimant may have filed the late requests for hearing due to an excusable mistake or factors beyond their reasonable control.

On remand, the ALJ should first inquire as to when, if at all, claimant received or otherwise learned about the issuance or outcome of either of the administrative decisions. This should include inquiry as to whether claimant was claiming benefits, or knew or had reason to know of a pending appeal, at the time those decisions were issued, so as to determine whether OAR 471-040-0010(1)(b)(A) is applicable to their circumstances. Further, the ALJ should inquire as to when claimant spoke to the investigator after the issuance of the administrative decisions; what the investigator told claimant and when; to whom claimant spoke at “the office” and what they told claimant; and what prompted claimant to call “the office” on that date, as opposed to some earlier date. The ALJ should also inquire as to whether any other factors prevented claimant from filing timely requests for hearing; and, if so, when those factors ceased.

Orders No. 26-UI-316827 and 26-UI-316824 therefore are reversed, and these matters remanded for a hearing on whether claimant’s late requests for hearing on the November 8, 2022 PUA determination and the November 18, 2022 overpayment decision should be allowed and, if so, the merits of those decisions.

DECISION: Orders No. 26-UI-316827 and 26-UI-316824 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: April 10, 2026

NOTE: The failure of any party to appear at the hearing on remand will not reinstate Orders No. 26-UI-316827 and 26-UI-316824 or return these matters to EAB. Only timely applications for review of the orders mailed to the parties after the remand hearing will return these matters to EAB.

Please help us improve our service by completing an online customer service survey. To complete the survey, please go to <https://www.surveygizmo.com/s3/5552642/EAB-Customer-Service-Survey>. If you are unable to complete the survey online and wish to have a paper copy of the survey, please contact our office.



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 – តម្រូវការនេះមិនមែនជាភារកិច្ចរបស់យើងទេ បើសិនជាអ្នកមិនយល់អំពីសេចក្តីសម្រេចនេះ ឬ បើសិនជាអ្នកមិនយល់ស្របចំពោះសេចក្តីសម្រេចនេះទេ ត្រូវទាក់ទងគណៈកម្មការឧទ្ធរណ៍ការងារភ្លាមៗ។ ប្រសិនបើលោកអ្នកមិនយល់ស្របចំពោះសេចក្តីសម្រេចនេះទេ លោកអ្នកអាចដាក់ពាក្យប្តឹងសុំឲ្យមានការពិនិត្យរឿងក្តីឡើងវិញជាមួយតុលាការឧទ្ធរណ៍រដ្ឋ Oregon ដោយអនុវត្តតាមសេចក្តីណែនាំដែលសរសេរនៅខាងចុងបញ្ចប់នៃសេចក្តីសម្រេចនេះ។

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 دستورالعمل 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

The Oregon Employment Department is an equal opportunity employer/program. Auxiliary aids and services are available upon request to individuals with disabilities. Language assistance is available to persons with limited English proficiency at no cost.

El Departamento de Empleo de Oregon es un programa que respeta la igualdad de oportunidades. Disponemos de servicios o ayudas auxiliares, formatos alternos y asistencia de idiomas para personas con discapacidades o conocimiento limitado del inglés, a pedido y sin costo.