

EMPLOYMENT APPEALS BOARD DECISION
2026-EAB-0318

Reversed & Remanded

PROCEDURAL HISTORY AND FINDINGS OF FACT: On November 2, 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 combined \$11,132 regular unemployment insurance (regular UI) or Pandemic Emergency Unemployment Compensation (PEUC) and Federal Pandemic Unemployment Compensation (FPUC) overpayment that claimant was required to repay, a \$1,669.80 monetary penalty, and a 52-week penalty disqualification from future benefits (decision # 194345). On November 22, 2022, decision # 194345 became final without claimant having filed a timely request for hearing. On January 23, 2026, claimant filed a late request for hearing. ALJ Scott considered claimant's request, and, on March 19, 2026 issued Order No. 26-UI-324307, dismissing the request as late, subject to claimant's right to renew the request by responding to an appellant questionnaire by April 2, 2026. On March 25, 2026, claimant filed a timely application for review with Employment Appeals Board.

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 written statement submitted with claimant's timely application for review, which is the equivalent of a response to the appellant questionnaire. This 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, stating 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: Order No. 26-UI-324307 is set aside, and this matter remanded for a hearing on whether claimant's late request for hearing on decision # 194345 should be allowed and, if so, the merits of that decision.

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 deadline to file a timely request for hearing on decision # 194345 was November 22, 2022. Because claimant did not request a hearing on decision # 194345 until January 23, 2026, the request for hearing was late.

The information contained in claimant’s appellant questionnaire response suggests that they did not receive decision # 194345. Claimant stated that they moved away from Oregon in December 2020, and did not receive decision # 194345 when it was mailed on November 2, 2022. EAB Exhibit 1 at 1. Available information shows that decision # 194345 was mailed to an address for claimant in Eugene, Oregon, presumably claimant’s address of record with the Department at the time, which claimant may not have updated when they moved away. Exhibit 1 at 1. Claimant further stated that when they moved from Oregon in December 2020, they filed a forwarding address request with the US Postal Service. Claimant stated that they experienced housing instability for a number of years thereafter, then gained some awareness of the overpayment issue set forth by decision # 194345 when they received a debt collection notice. Claimant also stated that the circumstances that prevented them from timely filing an appeal ended on December 31, 2025. EAB Exhibit 1 at 1-2.

If claimant did not receive decision # 194345, factors beyond claimant’s reasonable control may have prevented them from timely filing the hearing request. However, further development of the record is necessary to determine whether claimant had good cause for the late request for hearing and, if so, whether claimant filed within a reasonable time of when the factors preventing a timely filing ended.

On remand, the ALJ should inquire whether claimant notified the Department of an updated address following their move away from Oregon, and if, following that move, claimant claimed benefits or had a pending appeal. The ALJ should inquire when claimant received the collection notice that gave claimant some awareness of the overpayment issue. The ALJ should further inquire what caused claimant to file their hearing request when they did on January 23, 2026, such as whether claimant received or otherwise became aware of decision # 194345 around that date and, if so, what the circumstances were that enabled claimant to receive or become aware of the administrative decision at that time. Additionally, the ALJ should ask questions to determine whether claimant’s late request for hearing was made within a seven-day reasonable time of when the factors preventing a timely filing, if any, ended. In particular, the ALJ should inquire what led claimant to believe that the circumstances that prevented them from timely filing an appeal ended on December 31, 2025, and, if the circumstances preventing a filing ended on that date, why claimant filed their hearing request more than seven days later, on January 23, 2026. If the record on remand shows that claimant failed to receive decision # 194345 and that their failure to receive it was due to factors beyond their reasonable control or an excusable mistake, and if claimant’s late request for hearing was made within a seven-day reasonable time after those factors ended, the late request for hearing should be allowed and the ALJ should turn to the merits of the case.

Order No. 26-UI-324307 therefore is reversed, and this matter remanded for a hearing on whether claimant's late request for hearing should be allowed and, if so, the merits of decision # 194345.¹

DECISION: Order No. 26-UI-324307 is set aside, and this matter remanded for further proceedings consistent with this order.

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

DATE of Service: April 28, 2026

NOTE: The failure of any party to appear at the hearing on remand will not reinstate Order No. 26-UI-324307 or return this matter to EAB. Only a timely application for review of the subsequent order will cause this matter to return to EAB.

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¹ If the merits of decision # 194345 are reached on remand, the ALJ should make sufficient inquiries to accurately apportion the overpaid benefit amounts to the corresponding Pandemic-era benefits program(s) under which the benefits were paid.



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 – តម្រូវការនេះមិនមែនជាបញ្ហាភ្នាក់ងារនៃការងាររបស់លោកអ្នកទេ។ បើលោកអ្នកមិនយល់ស្របចំពោះសេចក្តីសម្រេចនេះទេ 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، می توانید با استفاده از دستور العمل موجود در پایان آن، از دادگاه تجدید نظر اورگان درخواست تجدید نظر کنید.

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