

EMPLOYMENT APPEALS BOARD DECISION
2026-EAB-0392-R

Request for Reconsideration Allowed
EAB Decision 2026-EAB-0392-R Reversed on Reconsideration
Order No. 26-UI-318846 Reversed
Late Request for Hearing Allowed
Merits Hearing Required

PROCEDURAL HISTORY: On September 4, 2025, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant was discharged by the employer for misconduct and disqualified from receiving benefits effective July 6, 2025 (decision # L0012731896).¹ On September 24, 2025, decision # L0012731896 became final without claimant having filed a request for hearing. On November 18, 2025, claimant filed a late request for hearing. On January 29, 2026, ALJ Parnell conducted a hearing, and on February 2, 2026 issued Order No. 26-UI-318846, dismissing claimant's late request for hearing and leaving decision # L0012731896 undisturbed. On February 23, 2026, Order No. 26-UI-318846 became final without claimant having filed an application for review with the Employment Appeals Board (EAB). On April 24, 2026, claimant filed a late application for review with EAB. On May 29, 2026, EAB issued EAB decision 2026-EAB-0392, dismissing claimant's late application for review without prejudice. On June 17, 2026, claimant filed a timely request for reconsideration. This decision is made under EAB's authority from ORS 657.290(3).

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 claimant's response to the late application for review questionnaire, which has been marked EAB Exhibit 2, and a copy provided to

¹ Decision # L0012731896 stated that claimant was denied benefits from July 6, 2025 to July 25, 2026. However, decision # L0012731896 should have stated that claimant was disqualified from receiving benefits beginning July 6, 2025 and until he earned four times his weekly benefit amount. See ORS 657.176.

the parties with this decision. Any party that objects to our admitting EAB Exhibit 2 must send the objection to EAB in writing, stating why they object, within ten days of our mailing this decision. OAR 471-041-0090(2). Unless such objection is received and sustained, the exhibit will remain in the record.

FINDINGS OF FACT: (1) In or around July 2025, claimant stopped working for the employer. Claimant's work for the employer had involved the manufacture of car batteries, which resulted in claimant being exposed to lead. The lead exposure, in turn, caused claimant to suffer from symptoms such as anxiety, difficulty concentrating, irritability, and trouble with memory. These symptoms persisted and continued to worsen after claimant's separation from work.

(2) On September 4, 2025, the Department mailed decision # L0012731896 to claimant's address on file with the Department. Decision # L0012731896 stated, "You have the right to appeal our decision and request a hearing if you believe our decision is wrong. We must receive your request for a hearing no later than **September 24, 2025.**" Exhibit 1 at 6 (emphasis in original).

(3) Claimant received and read decision # L0012731896. However, claimant had a large amount of paperwork to contend with at the time, and failed to appeal the decision by September 24, 2025.

(4) On or around November 16, 2025, claimant realized that he had missed claiming a week of benefits, which led him to call the Department. Claimant spoke to a representative that day who helped him with the missed week. On November 18, 2025, another representative called claimant and told him that claimant had been denied benefits, prompting claimant to request a hearing that day. On his request for hearing, the representative noted, "[Claimant] thought that he had appealed timely." Exhibit 1 at 4.

(5) Order No. 26-UI-318846, mailed to claimant on February 2, 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-318846 at 4. Order No. 26-UI-318846 also stated on its Certificate of Mailing, "Any appeal from this Order must be filed on or before February 23, 2026 to be timely."

(6) On February 23, 2026, Order No. 26-UI-318846 became final without claimant having filed an application for review with EAB. On April 24, 2026, claimant filed a late application for review.

CONCLUSIONS AND REASONS: Claimant's request for reconsideration is allowed. On reconsideration, EAB Decision 2026-EAB-0392 is reversed, and claimant's late application for review is allowed. Order No. 26-UI-318846 is reversed, claimant's late request for hearing on decision # L0012731896 is allowed. Claimant is entitled to a hearing on the merits of decision # L0012731896.

Reconsideration. ORS 657.290(3) permits the Employment Appeals Board to reconsider any past decision of the Employment Appeals Board, including "the making of a new decision to the extent necessary and appropriate for the correction of previous error of fact or law." The request will be dismissed unless it says that a copy of the request was given to the other parties, and unless it is filed within 20 days after the decision the party wants to be reconsidered was mailed. OAR 471-041-0145(2) (May 13, 2019).

EAB dismissed claimant's late application for review without prejudice and allowing them to file a new request within 20 days of the dismissal decision. Claimant filed a request for reconsideration that met the requirements in OAR 471-041-0145. The request for reconsideration is therefore allowed.

Late Application for Review. An application for review is timely if it is filed within 20 days of the date that the Office of Administrative Hearings (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 application for review of Order No. 26-UI-318846 was due by February 23, 2026. Because claimant did not file his application for review until April 24, 2026, the application for review was late.

In his response to the late application for review questionnaire, claimant explained that he did not know when he received Order No. 26-UI-318846, but that he "found the whole process hard to navigate and understand," and that it exacerbated his anxiety. EAB Exhibit 2 at 1. Claimant further explained that he suffered from anxiety attacks which resulted in "trouble navigating the site," that "memory on dates and times have easily gotten confused in [his] mind," and that "even setting alarms and reminders" were not sufficient to mitigate these issues. EAB Exhibit 1 at 2. Additionally, claimant explained that those circumstances were "still an [ongoing] issue" as of June 17, 2026. EAB Exhibit 1 at 2.

Given claimant's explanations above, and in the context of the various medical issues caused by his exposure to lead, it can be inferred from the record that claimant's lead-exposure-related difficulties caused his delayed ability to file a timely application for review. As such, claimant failed to file a timely application for review due to factors or circumstances beyond his reasonable control. Further, because the factors or circumstances which prevented the timely filing were still ongoing as of the date that claimant filed the late application for review, claimant filed the late application for review within a reasonable time of when those factors or circumstances ended (as they had not actually ended). Therefore, claimant's late application for review is allowed.

Late Request 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.

The request for hearing on decision # L0012731896 was due by September 24, 2025. Because claimant did not file his request for hearing until November 18, 2025, the request was late. However, for reasons similar to why claimant's late application for review is allowed, claimant's late request for hearing also is allowed.

The record shows that claimant was suffering from several cognitive and mental-health-related difficulties due to workplace lead exposure. This apparently led to claimant having trouble managing the large amount of paperwork, including decision # L0012731896, that he had been receiving. While claimant was unable to confirm when he received and read decision # L0012731896, the record suggests that he did so prior to the decision becoming final.² Nevertheless, it can be reasonably inferred from the record that even if claimant did timely receive and read the decision, his medical issues prevented him from being able to handle the matter in a timely fashion. Thus, claimant was prevented from filing a timely request for hearing due to factors beyond his reasonable control.

Those factors persisted until November 18, 2025. On that date, a Department representative called claimant back to inform him that he had been denied benefits. This prompted claimant to request a hearing on the decision that day. Thus, the difficulty that claimant had been having with managing his affairs, while not resolved entirely, was resolved at least as to the difficulty he had been having with filing the request for hearing. As claimant filed his late request for hearing on the same day that the factors preventing the timely filing ended, claimant filed the late request for hearing within a reasonable time. Claimant's late request for hearing is therefore allowed, and claimant is entitled to a hearing on the merits of decision # L0012731896.

DECISION: Claimant's request for EAB to reconsider EAB Decision 2026-EAB-0392 is allowed. On reconsideration, EAB Decision 2026-EAB-0392 is reversed, as explained in this decision. Order No. 26-UI-318846 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: July 21, 2026

NOTE: The failure of any party to appear at the hearing on remand will not reinstate Order No. 26-UI-318846 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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² At hearing, the ALJ, apparently viewing claimant's claim in Frances Online, asked claimant if he had viewed decision # L0012731896 on Frances Online on September 12, 2025, to which claimant replied that it was possible. Audio Record at 7:15 to 7:47.



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 الاستئناف 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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