

EMPLOYMENT APPEALS BOARD DECISION
2026-EAB-0545

Reversed
Overpayment Waiver Granted

PROCEDURAL HISTORY: On September 12, 2024, the Oregon Employment Department (the Department) served notice of an administrative decision denying claimant's request to waive recovery of an \$18,180 overpayment of federal unemployment insurance benefits (decision # L0006065923). Claimant filed a timely request for hearing. On May 1, 2026, ALJ S. Lee conducted a hearing, and on May 12, 2026 issued Order No. 26-UI-330008, affirming decision # L0006065923. On May 26, 2026, claimant filed an application for review with the Employment Appeals Board (EAB).

WRITTEN ARGUMENT: Claimant's May 26, 2026 and June 23, 2026 arguments contained information that was not part of the hearing record and did not show that factors or circumstances beyond claimant's reasonable control prevented her from offering the information during the hearing. Under ORS 657.275(2) and OAR 471-041-0090 (May 13, 2019), EAB considered only information received into evidence at the hearing. EAB considered any parts of claimant's arguments that were based on the hearing record.

FINDINGS OF FACT: (1) In early December 2020, claimant's husband prepared an initial claim for Pandemic Unemployment Assistance (PUA) benefits on claimant's behalf. Claimant had not been employed or self-employed for many years and believed that she was ineligible for benefits. Claimant therefore initially refused to sign the claim form, telling her husband, "I don't qualify for this, and this isn't right," and "I don't want to get in trouble." Transcript at 12. Claimant's husband "tormented" claimant for three days as he demanded that she sign the claim form while "following [her] around the house, screaming at [her]." Transcript at 12. He then "started taking it out on the kids and blowing up at them over things." Transcript at 12.

(2) By December 6, 2020, claimant felt that her "whole house was in this horrible state" due to her husband's "belligerent storm of anger" over her refusal to sign the claim form. Transcript at 12. This verbally and emotionally abusive behavior toward claimant, at times also involving her children, was typical during the marriage. Fearful of what her husband might do if she did not accede to his demands, claimant signed the claim form on December 6, 2020, and her husband filed it that day. Claimant

believed that the Department would conclude that she was ineligible for benefits and did not expect any payment on the claim.

(3) The Department initially determined the claim to be valid for PUA benefits with a weekly benefit amount of \$205. At times after the initial claim was filed, claimant's husband contacted the Department by phone to discuss the claim, and the representative required claimant's consent to allow the husband's involvement. Each time, fearful of what her husband might do if she refused, claimant gave consent for her husband to act on her behalf regarding the claim. Claimant did not have any further involvement with, or knowledge of, the claim until 2024.

(4) Claimant's husband filed weekly claims including for the weeks of December 27, 2020 through September 4, 2021 (weeks 53-20 through 35-21). These are the weeks at issue. The Department paid \$205 in PUA benefits and \$300 in Federal Pandemic Unemployment Compensation (FPUC) benefits for each of the weeks at issue, totaling \$18,180. Claimant's husband had the payments deposited either in a joint account with claimant or one he exclusively controlled. Claimant had access to the funds in the joint account through use of a debit card, but did not have access to the account statements. Claimant's husband was receiving unemployment insurance benefits on his own claim from December 2020 through September 2021, and claimant therefore did not question the source of the funds in the joint account.

(5) On October 5, 2021, the Department issued a Notice of Determination for PUA, concluding that claimant was ineligible to receive benefits, effective December 27, 2020, because she failed to provide acceptable proof of employment or self-employment. The PUA decision cited several documents, all provided by claimant's husband without claimant's knowledge, that the Department deemed insufficient to satisfy the requirement. *See* Exhibit 1 at 1. On October 25, 2021, the PUA decision became final without a request for hearing having been filed.

(6) On August 26, 2022, the Department issued decision # 122539, assessing an overpayment of \$7,380 in PUA benefits and \$10,800 in FPUC benefits based on the October 5, 2021 PUA decision. On September 15, 2022, decision # 122539 became final without a request for hearing having been filed.

(7) Claimant's husband intercepted all the household mail, even that addressed to claimant, and kept from her any correspondence related to the claim and overpayment, including the October 5, 2021 PUA decision and decision # 122539.

(8) On September 10, 2024, a Department representative attempting to recover the overpayment called claimant's home and began speaking with claimant's husband. The representative insisted on speaking with claimant personally, and claimant eventually joined the call. The representative told claimant about the payments on her claim and the resulting overpayment. When the call ended, claimant confronted her husband about having accrued the overpayment in her name. Claimant's husband was "so emotionally kind of unwell and broken" due to other stressors at that time that he "didn't put up a fight," and admitted to having caused the overpayment. Transcript at 20. He also showed claimant a folder of correspondence relating to the claim, including decision # 122539. Claimant urged her husband to call the Department and explain his role in the claim and overpayment.

(9) On September 11, 2024, claimant called the Department and explained what had happened regarding the claim and overpayment. The representative filed a request to waive recovery of the overpayment on claimant's behalf. The representative told claimant about the right to request a hearing if the waiver request was denied.

(10) On September 12, 2024, claimant told her husband that if the waiver was not granted, he should be prepared to testify at a hearing regarding the circumstances that caused the overpayment. Claimant told her husband during the conversation that their "relationship is over" and that she planned to leave him the following day. Transcript at 21. Claimant then left the house, and when she returned later that day, discovered that her husband had committed suicide there.

(11) Also on September 12, 2024, the Department issued decision # L0006065923, denying claimant's waiver request on the basis that she was at fault for the overpayment.

CONCLUSIONS AND REASONS: Claimant's overpayment waiver request is granted.

Waiver of PUA and FPUC overpayments are governed by the provisions of 15 U.S.C. § 9201(d)(4) and 15 U.S.C. § 9023(f)(2), respectively. They require that, for a waiver to be granted, the overpayment of benefits be without fault on the part of the claimant, and that repayment be contrary to equity and good conscience. "Without fault means the state has determined the individual had no fault with respect to a given week of unemployment which is determined to be overpaid." Unemployment Insurance Program Letter (UIPL) 20-21 Change 1, at 9 (February 7, 2022). Finding an individual to be without fault is fact-specific and must be done on a case-by-case basis. UIPL 20-21 Change 1, at 9.

With respect to the "contrary to equity and good conscience" element, federal guidance provides that states may defer to state law in defining what it means for repayment to be contrary to equity and good conscience, or may use the federal standard. UIPL 20-21 Change 1, at 9. In the absence of evidence to the contrary, it is reasonable to conclude that the Department opted to apply the federal standard given that PUA and FPUC are federal benefits programs.

The federal standard provides that recovery is "contrary to equity and good conscience" when one of at least three circumstances are present. Those circumstances are: (1) recovery would cause financial hardship to the person from whom it is sought; (2) the recipient of the overpayment can show (regardless of their financial situation) that due to the notice that such payment would be made or because of the incorrect payment, either they have relinquished a valuable right or changed positions for the worse; or (3) recovery would be unconscionable under the circumstances. UIPL 20-21 Change 1, at 10-13.

Claimant was overpaid benefits for the weeks at issue primarily due to the actions of her late husband. The order under review concluded that claimant "was, at least, somewhat at fault for the overpayment" because she signed the initial claim form and then ceded authority over the claim to her husband, knowing that he was likely pursuing benefits to which she was not entitled. Order No. 26-UI-330008 at 6. The record does not support that claimant was at fault for the overpayment.

Claimant admitted at hearing to having signed the initial claim form despite knowing that she was likely not entitled to PUA benefits, and to giving consent for the Department to allow her husband to manage

her claim after it was filed. However, claimant testified that both actions were taken “under extreme duress,” and described her husband’s verbal and emotional abuse and manipulation toward her and her children throughout the marriage, and specifically with regard to the claim. Transcript at 22. Claimant testified to resisting the efforts to get her to sign the initial claim form for three days as her husband “torment[ed]” her, and relented only when his persistent abuse caused such disruption to the household that she was “afraid for [her] own well-being and the well-being of [her] children.” Transcript at 12, 22. Although claimant did not describe additional coercive acts when her husband directed her to tell the Department he was authorized to handle the claim on her behalf, it is reasonable to infer that claimant feared similar or worse conduct than what she experienced regarding the signing of the initial claim. Claimant denied any other involvement in, or knowledge of, the claim during the weeks at issue, and the Department did not rebut that testimony.

Under these circumstances, claimant cannot be considered at fault for her role in the Department’s improper payment of benefits. As to each week at issue in which benefits were claimed and paid, claimant’s husband filed the claim and obtained the benefits without claimant’s knowledge or permission. Although claimant provided the access necessary for him to do so, she did not act voluntarily in that regard. Accordingly, claimant was without fault in her husband’s receipt of the benefits for purposes of 15 U.S.C. § 9201(d)(4) and 15 U.S.C. § 9023(f)(2).

The second part of the analysis concerns whether recovery of the overpaid benefits would be “contrary to equity and good conscience.” The record was not developed as to claimant’s financial situation on and after September 11, 2024, when she requested the waiver. However, even without consideration of the financial impact of recovering the overpayment, the record shows that recovery would be unconscionable under the circumstances. Claimant’s husband obtained the benefits at issue by, perhaps, making false or misleading statements to the Department, and indirectly through domestic abuse to gain the access needed to pursue the claim in his wife’s name. As the victim of such abuse and an unwilling participant in her late husband’s pursuit of the benefits obtained, it would be unconscionable to require claimant to repay the benefits, which presumably were spent years ago, prior to her husband’s death. Therefore, claimant has met both federal waiver criteria, and is entitled to the waiver.

For these reasons, claimant’s request to waive recovery of \$7,380 in PUA benefits and \$10,800 in FPUC benefits is granted.

DECISION: Order No. 26-UI-330008 is set aside, as outlined above.

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

DATE of Service: July 9, 2026

NOTE: You may appeal this decision by filing a Petition for Judicial Review with the Oregon Court of Appeals **within 30 days of the date of service stated above.** See ORS 657.282. For forms and information, visit <https://www.courts.oregon.gov/courts/appellate/forms/Pages/appeal.aspx> and choose the appropriate form under “File a Petition for Judicial Review.” You may also contact the Court of Appeals by telephone at (503) 986-5555, by fax at (503) 986-5560, or by mail at 1163 State Street, Salem, Oregon 97301.

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

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.

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.