

EMPLOYMENT APPEALS BOARD DECISION
2026-EAB-0594

Affirmed
Late Request for Hearing Dismissed

PROCEDURAL HISTORY: On October 8, 2025, 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 \$872 overpayment that claimant was required to repay to the Department, a \$130.80 monetary penalty, and an eight-week penalty disqualification from future benefits (decision # L0013319934). On October 28, 2025, decision # L0013319934 became final without claimant having filed a request for hearing. On May 11, 2026, claimant filed a late request for hearing on decision # L0013319934.

ALJ Kangas considered claimant's request, and on May 13, 2026, issued Order No. 26-UI-330158, dismissing claimant's request for hearing as late, subject to claimant's right to renew the request by responding to an appellant questionnaire by May 27, 2026. On May 21, 2026, claimant filed a timely appellant questionnaire response. ALJ Kangas considered the response, and, on June 10, 2026, issued Order No. 26-UI-332420, canceling Order No. 26-UI-330158, re-dismissing claimant's request for hearing as late without good cause, and leaving decision # L0013319934 undisturbed. On June 10, 2026, claimant filed an application for review of Order No. 26-UI-332420 with the Employment Appeals Board (EAB).

WRITTEN ARGUMENT: Claimant's argument contained new information about why their request for hearing was late. However, the argument did not show that factors or circumstances beyond claimant's reasonable control prevented them from offering the information into the hearing record before the ALJ at OAH in their response to the appellant questionnaire. Under ORS 657.275(2) and OAR 471-041-0090 (May 13, 2019), EAB did not consider claimant's new information, but otherwise considered the argument to the extent it was based on the record.

FINDINGS OF FACT: (1) On October 1, 2025, the Department issued decision # L0013230878, an administrative decision that concluded that claimant had been discharged for misconduct and therefore was disqualified from receiving benefits. The decision stated, "There may be other issues affecting your eligibility for benefits, and you may receive separate decisions that affect your claim." The decision included a paragraph stating claimant's appeal rights. At the end of that paragraph, the decision stated,

“If there are other decisions affecting your eligibility for benefits, you must appeal those decisions separately.” Decision # L0013230878 did not mention anything about fraud, overpayments, monetary penalties, or penalty disqualification weeks.¹

(2) On October 1, 2025, claimant filed a timely request for hearing on decision # L0013230878.

(3) On October 8, 2025, the Department issued decision # L0013319934, an administrative decision that, unlike the October 1, 2025 administrative decision that claimant had already appealed, concluded that claimant had willfully made a misrepresentation and failed to report a material fact to obtain benefits, and was liable for an \$872 overpayment, a \$130.80 monetary penalty, and an eight-week penalty disqualification from future benefits.

(4) Decision # L0013319934 had a heading on its first page stating “Fraud Decision” in bold and large font. Exhibit 1 at 1. It also had subheadings in bold font stating “Overpayment,” “Penalty Weeks,” and “Monetary Penalty.” Exhibit 1 at 1-2. Decision # L0013319934 also included the following paragraph stating the reasons supporting its conclusions:

You sent a claim for benefits. You certified reporting true and accurate information to obtain benefits. You reported on your Initial Claim that you were laid off due to a lack of work It was determined by an Administrative Decision issued on 10/01/25 that you were discharged from work for misconduct which resulted in an overpayment. The penalty weeks have been increased from 4 to 8 due to a prior misrepresentation decision issued on 10/14/20.

Exhibit 1 at 2. Decision # L0013319934 further 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 **October 28, 2025**.” Exhibit 1 at 2 (emphasis in original). Finally, decision # L0013319934 stated, “If there are other decisions affecting your eligibility for benefits, you must appeal those decisions separately.” Exhibit 1 at 2.

(5) Claimant received decision # L0013319934 in the mail shortly after it was issued. When they received the decision, they “disregarded” it because they had already appealed the October 1, 2025 administrative decision that concluded that claimant had been discharged for misconduct, and they thought “that appeal should’ve covered both” administrative decisions. Exhibit 3 at 5.

(6) Claimant’s appeal of the October 1, 2025 discharge administrative decision proceeded. On January 21, 2026, a hearing was held, at which the employer failed to appear, and on January 29, 2026, ALJ Monroe issued an order reversing the administrative decision by concluding that claimant had been

¹ EAB has taken notice of the facts contained in this paragraph, which are contained in Employment Department records. OAR 471-041-0090(1). 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 noticed facts will remain in the record.

discharged, but not for misconduct. The order did not mention anything about fraud, overpayments, monetary penalties, or penalty disqualification weeks.²

(7) By operation of the ALJ's order reversing the October 1, 2025 discharge administrative decision and concluding that claimant had been discharged, but not for misconduct, claimant's overpayment and monetary penalty were eliminated. However, the eight-week penalty disqualification from future benefits established by decision # L0013319934 was unaffected and remained in effect. On May 5, 2026, claimant called the Department and spoke with a representative who informed claimant that his benefits were being withheld in order to serve the penalty weeks.

(8) On May 11, 2026, claimant filed a late request for hearing on decision # L0013319934.

CONCLUSIONS AND REASONS: Claimant's late request for hearing on decision # L0013319934 is dismissed.

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 deadline to file a request for hearing on decision # L0013319934 was October 28, 2025. Claimant filed their request for hearing on May 11, 2026. Claimant's hearing request was therefore late.

Claimant did not show good cause to extend the October 28, 2025 deadline to file a hearing request on decision # L0013319934. Claimant did not show that a factor beyond their reasonable control prevented them from filing in a timely manner. They received the administrative decision shortly after it was issued and well before the deadline to appeal. Claimant "disregarded" decision # L0013319934 because they had already appealed the October 1, 2025 discharge administrative decision and incorrectly thought that the earlier appeal "should've covered both" administrative decisions. Exhibit 3 at 5. However, both the October 1, 2025 decision and decision # L0013319934 stated in plain language that claimant had the right to appeal and that, "[i]f there are other decisions affecting your eligibility for benefits, you must appeal those decisions separately." *See, e.g.*, Exhibit 1 at 2. Decision # L0013319934 also stated that the Department "must receive your request for a hearing no later than October 28, 2025." It was within claimant's reasonable control to recognize that decision # L0013319934 was distinct from the October 1, 2025 decision, read and take note of the deadline to appeal decision # L0013319934, and, if they disagreed with it, ensure that they filed their hearing request before the deadline passed.

Claimant's belief that the earlier appeal "should've covered both" administrative decisions was a mistake on their part. However, it was not an "excusable mistake" within the meaning of the administrative rules. This is so because decision # L0013319934 conveyed in a prominent way that would attract notice that it was substantively different from the earlier decision and had to be appealed

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individually. It had a heading on its first page stating “Fraud Decision” in bold and large font. Exhibit 1 at 1. It also had subheadings in bold font stating “Overpayment,” “Penalty Weeks,” and “Monetary Penalty.” Exhibit 1 at 1-2. The October 1, 2025 decision had not mentioned anything about fraud, overpayments, monetary penalties, or penalty disqualification weeks. Moreover, decision # L0013319934 specifically mentioned the separate October 1, 2025 decision, and, as discussed above, contained the warning that other decisions affecting claimant’s eligibility must be appealed separately.

Moreover, the record does not show that either of the administrative decisions were inherently confusing, or that some external event or condition made them confusing. Nor does the record show that any undue barrier or impairment existed that might have interfered with claimant reading decision # L0013319934 and understanding it. There is also no evidence that claimant made efforts to contact the Department to confirm the accuracy of their unfounded belief that the earlier appeal “should’ve covered both” administrative decisions. Claimant’s mistake therefore does not raise an issue of reasonable reliance on another, or the inability to follow directions despite substantial efforts to comply. Given that decision # L0013319934 was distinct from the earlier decision and had to be appealed separately, and given the absence of any additional factors, claimant failed to establish that an excusable mistake prevented them from filing the hearing request in a timely manner.

Claimant therefore failed to show that factors beyond their reasonable control or an excusable mistake prevented them from filing a timely request for hearing. As such, claimant’s late request for hearing on decision # L0013319934 is dismissed.

DECISION: Order No. 26-UI-332420 is affirmed.

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

DATE of Service: July 17, 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 دستورالعمل موجود در پایان آن، از دادگاه تجدید نظر اورگان درخواست تجدید نظر کنید.

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