

EMPLOYMENT APPEALS BOARD DECISION
2026-EAB-0596

Order No. 26-UI-331200 Modified
Late Request for Hearing Allowed
Ineligible for PUA Benefits

PROCEDURAL HISTORY: On October 28, 2021, the Oregon Employment Department (the Department) served a Notice of Determination for Pandemic Unemployment Assistance (PUA) concluding that claimant was ineligible to receive PUA benefits effective March 22, 2020. On November 17, 2021, the October 28, 2021 PUA determination became final without claimant having filed a request for hearing. On April 29, 2022, claimant filed a late request for hearing. ALJ Kangas considered the request, and on August 3, 2022 issued Order No. 22-UI-199599, dismissing claimant's request for hearing as late, subject to claimant's right to renew the request by responding to an appellant questionnaire by August 17, 2022. On August 23, 2022, Order No. 22-UI-199599 became final without claimant having filed an appellant questionnaire response or an application for review with the Employment Appeals Board (EAB).

On January 12, 2026, claimant filed a late appellant questionnaire response.¹ ALJ Kangas reviewed the response, and on January 29, 2026 issued Order No. 26-UI-318602, cancelling Order No. 22-UI-199599, declining to consider claimant's appellant questionnaire response because it was filed late, and re-dismissing the late request for hearing on the October 28, 2021 PUA determination. On February 4, 2026, claimant filed a timely application for review of Order No. 26-UI-318602 with EAB. On March 19, 2026, EAB issued EAB Decision 2026-EAB-0119, affirming without prejudice Order No. 26-UI-318602.² Also on March 19, 2026, claimant filed a request for reconsideration of EAB Decision 2026-

¹ The filing was in the form of a late application for review of a different order (Order No. 22-UI-199592) filed with EAB on January 12, 2026, an email claimant sent to EAB the same day, and a related email EAB forwarded to the Office of Administrative Hearings (OAH) the following day. Exhibit 3 at 1-3. These documents contained statements that could be construed as explaining why either the request for hearing on the October 28, 2021 PUA determination, or an appellant questionnaire response, or both, were not timely filed. As such, the filing was treated collectively as a late appellant questionnaire response in this matter and forwarded to OAH.

² EAB combined its review of Orders No. 26-UI-318602 and 26-UI-318599 under OAR 471-041-0095 (October 29, 2006). The matters remained consolidated through the May 19, 2026 remand hearing. EAB is issuing separate decisions on

EAB-0119. On April 30, 2026, EAB issued EAB Decision 2026-EAB-0119-R, reversing on reconsideration EAB Decision 2026-EAB-0119, reversing Order No. 26-UI-318602, and remanding the matter for a hearing to determine whether claimant's late request for hearing on the October 28, 2021 PUA determination should be allowed and, if so, the merits of that decision.

On May 19, 2026, ALJ Goodrich conducted a hearing, and on May 27, 2026 issued Order No. 26-UI-331200, dismissing claimant's request for hearing as late without good cause and leaving the October 28, 2021 PUA determination undisturbed.³ On June 10, 2026, claimant filed an application for review of Order No. 26-UI-331200 with EAB.

WRITTEN ARGUMENT: EAB considered claimant's argument in reaching this decision.

FINDINGS OF FACT: (1) In August 2020, an acquaintance approached claimant about filing a claim for PUA benefits on claimant's behalf. Claimant did not believe he was eligible for PUA benefits, as he had not become unemployed as a direct result of the COVID-19 pandemic. Despite this belief, claimant authorized the acquaintance to file an initial claim for PUA on his behalf and provided her with some personal information, such as his Social Security number.

(2) On August 28, 2020, the acquaintance filed an initial claim for PUA on claimant's behalf. The claim form asserted that as of March 2020⁴ claimant had been self-employed in a "mobile barber" business named "Mobile Cuts" that had 40 clients and \$1,500 worth of tools, and that this was his "primary occupation and primary means of livelihood." Exhibit 4 at 11-12. The claim form further asserted that the business was closed as a direct result of the COVID-19 public health emergency. Exhibit 4 at 10. The claim was initially determined to be valid. Between August 28, 2020 and September 24, 2020, continuing claims were filed for some weeks, and benefits for those weeks were paid by check.

(3) Although claimant had, prior to March 2020, occasionally cut hair in people's homes for money, he had never been licensed to do so, as is required by law, and it was never his primary occupation or means of livelihood. Claimant had never attempted to form a haircutting business, such as through registering a business name, applying for required licenses, or filing business tax returns.

(4) On September 25, 2020, claimant contacted the Department, changed his mailing address of record, and requested reissuance of the benefit checks that had been issued to him up to that point, alleging that the acquaintance had claimed those weeks and kept or negotiated payment of the checks without claimant's knowledge. Claimant thereafter filed weekly benefit claims, which were paid for some weeks

claimant's applications for review of the orders issued after that hearing (EAB Decisions 2026-EAB-0596 and 2026-EAB-0597).

³ Because the ALJ concluded during the hearing that claimant's late request for hearing should be dismissed, the hearing did not proceed to expressly addressing the merits of the October 28, 2021 PUA determination. Nonetheless, the record was fully developed on the issue of claimant's PUA eligibility during questioning regarding the late request for hearing, and both claimant and the Department had a full and fair opportunity to be heard on that issue. Under ORS 657.275(2), "[EAB] may address issues raised by evidence in the record. . . notwithstanding the scope of the issues raised by the parties, the arguments set forth in a party's application for review or the parties' written or oral arguments." EAB's decision, which allows claimant's late request for hearing, also addresses the merits of the October 28, 2021 PUA determination.

⁴ The claim form alternately listed the closure date of the business as "03/23/2019" and "3/23/2020." Exhibit 4 at 10, 11.

through November 21, 2020 (week 47-20). Claimant continued to file weekly benefit claims after week 47-20, but no benefits were paid as the Department investigated claimant's complaint regarding alleged theft of the checks issued prior to September 25, 2020.

(5) On June 25, 2021, claimant changed his mailing address on file with the Department to that of a PO Box belonging to another acquaintance, with that person's permission. Claimant did not have stable housing and believed that this was his best option for receiving mail.

(6) Claimant remained unemployed through at least August 7, 2021, the end of the final benefit week (week 31-21) for which he claimed PUA benefits.

(7) On September 4, 2021, the PUA program ended. Claimant did not have an active claim for benefits or a pending appeal regarding benefits after that date. Claimant continued to await resolution of his request for reissuance of the pre-September 25, 2020 checks, and the hold on payment for weekly claims after week 47-20.

(8) The October 28, 2021 PUA determination, mailed to the PO Box address on file with the Department on October 28, 2021, 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 17, 2021." Exhibit 4 at 4. Claimant no longer had access to the PO Box at that time and did not receive the decision.

(9) On December 3, 2021, claimant called the Department to inquire about the status of the check reissuance request and the unpaid weekly claims. Claimant was told of the October 28, 2021 PUA determination and a related November 3, 2021 overpayment decision, and claimant explained to the representative that he had not received either decision. The representative noted regarding the call, "[Claimant] wants to know how to challenge decision[s]. Informed [claimant] that the letters will have info on how to appeal. Claimant hung up mid conversation." Exhibit 4 at 24.

(10) On April 28, 2022, claimant again called the Department to inquire about the status of the check reissuance request and the unpaid weekly claims. The October 28, 2021 PUA determination was again discussed with claimant and he was advised how to file a late request for hearing online. Claimant updated his mailing address during the call.

(11) On April 29, 2022, claimant filed a late request for hearing on the October 28, 2021 PUA determination.

CONCLUSIONS AND REASONS: Claimant's late request for hearing is allowed. Claimant is ineligible to receive PUA benefits.

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.

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 request for hearing on the October 28, 2021 PUA determination was due by November 17, 2021. Claimant’s request for hearing was filed on April 29, 2022, and was therefore late. Claimant was prevented from filing a timely request for hearing because the decision was mailed to a PO Box to which claimant no longer had access. At the time the decision was mailed, claimant was not claiming benefits and did not have a pending appeal, and therefore OAR 471-040-0010(1)(b)(A) does not bar a finding of good cause. Under these circumstances, claimant’s failure to receive the decision was a factor beyond his reasonable control that prevented timely filing, and good cause exists to extend the filing deadline.

The order under review concluded that while good cause existed to extend the filing deadline, the factor that prevented timely filing ended on December 3, 2021, and claimant’s late request for hearing was not filed within a “reasonable time” after that date. Order No. 26-UI-331200 at 6. The record does not support that the factor that prevented timely filing ended on December 3, 2021, or that claimant’s late request for hearing was not filed within a “reasonable time.”

The record shows that claimant first learned of the October 28, 2021 PUA determination during a December 3, 2021 call with a Department representative. According to the representative’s notes, claimant “want[ed] to know how to challenge the decision” and was told that “the letters will have info on how to appeal,” even though the representative knew that claimant had not received the decision and did not have access to a copy of it. Exhibit 4 at 24. The representative’s failure to provide necessary information or assistance in response to claimant’s request to “challenge the decision” meant that claimant was not yet on notice of his right to file a late request for hearing. The factor that prevented timely filing therefore did not end at that time.

It was only during claimant’s subsequent call on April 28, 2022, when a representative explained that claimant could file a late request for hearing and gave specific instructions on how to file it, that the factor that prevented timely filing ended. Claimant’s late request for hearing was filed the next day, and therefore within a seven-day “reasonable time.” Accordingly, claimant’s late request for hearing on the October 28, 2021 PUA determination is allowed. As previously noted, the hearing record was sufficiently developed to permit EAB to decide the merits of the October 28, 2021 PUA determination without the need to take further evidence.

PUA Eligibility. To be eligible for PUA benefits, an individual must be a “covered individual” as that term is defined by the CARES Act, as amended. 15 U.S.C. § 9021(b). In pertinent part, a “covered individual” is an individual who (1) “is not eligible for regular compensation or extended benefits . . . or pandemic emergency unemployment compensation” and (2) self-certifies that they are either “otherwise able to work and available to work within the meaning of applicable State law, except the individual is unemployed, partially unemployed, or unable or unavailable to work because” of one of eleven reasons related to the COVID-19 pandemic, or “is self-employed, is seeking part-time employment, does not

have sufficient work history, or otherwise would not qualify for regular unemployment” and is rendered unemployed because of one of the eleven listed reasons.⁵ 15 U.S.C. § 9021(a)(3)(A)(i)-(ii).

The enumerated COVID-19 related reasons include that “the individual has to quit his or her job as a direct result of COVID-19,” and that “the individual’s place of employment is closed as a direct result of the COVID-19 public health emergency[.]” 15 U.S.C. § 9021(a)(3)(A)(ii)(I)(ii) and (jj). Another of the enumerated COVID-19 related reasons is that “the individual meets any additional criteria established by the [United States] Secretary [of Labor] for unemployment assistance under this section.” 15 U.S.C. § 9021(a)(3)(A)(ii)(I)(kk). A circumstance approved via the Secretary’s item (kk) authority is for “self-employed individuals who experienced a significant diminution of services because of the COVID-19 public health emergency.” U.S. Dep’t of Labor, Unemployment Insurance Program Letter No. 16-20 (UIPL 16-20), Change 2 (July 21, 2020) at 2.

Claimant’s initial claim for PUA benefits potentially involved the above three enumerated reasons by asserting that claimant had been self-employed as a mobile barber, and that the business had closed as a direct result of COVID-19, rendering claimant unemployed. Claimant’s continued claims asserted that he remained unemployed for the same reasons during each of the weeks claimed. Claimant testified at hearing that he was unaware of the contents of the initial claim form completed by his acquaintance at the time it was filed, and after reviewing it in preparation for the May 19, 2026 hearing, believed that the information it contained about his PUA eligibility was largely false. Transcript at 31. Claimant did not assert any other basis of PUA eligibility at hearing.

The Department’s investigation of the claim revealed that claimant had never held a license to work as a barber in Oregon and had never registered a business with the Oregon Secretary of State. See Exhibit 4 at 15-16. The investigation uncovered no other evidence indicating that claimant had ever lawfully operated a mobile haircutting business in the state. Claimant’s testimony corroborated this evidence. Claimant explained that while he “cut people’s hair throughout the city” and in prison, he “didn’t have a mobile barbershop” and “never considered [himself] a licensed barber.” Transcript at 72. Claimant denied having had as many as 40 clients, and testified that his only investment in the venture was “a \$30 pair of hair clippers.” Transcript at 74. When asked if cutting hair had been his “primary occupation and [primary] means of livelihood,” claimant replied, “Um, no. I mean, it honestly wasn’t even self-employment. It was just. . . a hustle that I had. It. . . was nothing. I mean, \$20. . . a day every now and then. . . It’s not what I used. . . to survive.” Transcript at 74.

The record therefore shows that claimant was not self-employed in March 2020 or thereafter, and did not separate from employment or have his place of employment close as a direct result of the COVID-19 pandemic. Claimant remained unemployed for reasons unrelated to the pandemic through at least the end of the last benefit week claimed, August 7, 2021. Accordingly, claimant was not at any time a “covered individual” as that term is defined by 15 U.S.C. § 9021(b), and was therefore not eligible to receive PUA benefits. The October 28, 2021 PUA determination is affirmed.

⁵ There is a third element of “covered individual” status, added to the Act via the Continued Assistance for Unemployed Workers Act of 2020, enacted on December 27, 2020. The third element requires certain claimants to provide documentation substantiating their employment or self-employment within a required timeframe. 15 U.S.C. § 9021(a)(3)(A)(iii). This decision does not reach the substantiation element because the decision concludes that claimant was ineligible to receive PUA for other reasons.

DECISION: Order No. 26-UI-331200 is modified, as outlined above.

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

DATE of Service: July 22, 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.

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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

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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

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