

EMPLOYMENT APPEALS BOARD DECISION
2026-EAB-0597

Order No. 26-UI-331201 Reversed
Late Request for Hearing Allowed
Mertis Hearing Required on the November 3, 2021 Overpayment Decision

PROCEDURAL HISTORY: On November 3, 2021, 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 \$14,930 overpayment in combined Pandemic Unemployment Assistance (PUA), Lost Wages Assistance (LWA), and Federal Pandemic Unemployment Compensation (FPUC) benefits that claimant was required to repay to the Department, and a \$2,059.50 monetary penalty. On November 23, 2021, the November 3, 2021 overpayment decision 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-199592, 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-199592 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-318599, cancelling Order No. 22-UI-199592, declining to consider claimant's appellant questionnaire response because it was filed late, and re-dismissing the late request for hearing on the November 3, 2021 overpayment decision. On February 4, 2026, claimant filed a timely application for review of Order No. 26-UI-318599 with EAB. On March 19, 2026, EAB issued EAB Decision 2026-EAB-0120, affirming without prejudice Order No. 26-UI-318599.² 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 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 requests for hearing or an appellant questionnaire response, or both, were not timely filed. As such, the filing was treated collectively as a late appellant questionnaire response 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-0120. On April 30, 2026, EAB issued EAB Decision 2026-EAB-0120-R, reversing on reconsideration EAB Decision 2026-EAB-0120, reversing Order No. 26-UI-318599, and remanding the matter for a hearing to determine whether claimant's late request for hearing on the November 3, 2021 overpayment decision 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-331201, dismissing claimant's request for hearing as late without good cause and leaving the November 3, 2021 overpayment decision undisturbed. On June 10, 2026, claimant filed an application for review of Order No. 26-UI-331201 with EAB.

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

FINDINGS OF FACT: (1) On August 28, 2020, an initial claim for PUA benefits was filed on claimant's behalf by an acquaintance. Claimant authorized the acquaintance to do so, and provided necessary information such as his Social Security number. 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.

(2) 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 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.

(3) 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.

(4) 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.

(5) The November 3, 2021 overpayment decision, mailed to the PO Box address on file with the Department on November 3, 2021, stated, "Any appeal from this decision must be filed on or before November 23, 2021 to be timely." Exhibit 4 at 5. Claimant no longer had access to the PO Box at that time and did not receive the decision.

(6) 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 November 3, 2021 overpayment decision and a related October 28, 2021 PUA determination concluding that claimant was

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

ineligible to receive PUA benefits, 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.

(7) 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 November 3, 2021 overpayment decision 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.

(8) On April 29, 2022, claimant filed a late request for hearing on the November 3, 2021 overpayment decision.

CONCLUSIONS AND REASONS: Claimant’s late request for hearing is allowed and a hearing on the merits of the November 3, 2021 overpayment decision is required.

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 November 3, 2021 overpayment decision was due by November 23, 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-331201 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 November 3, 2021 overpayment decision 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 is allowed, and the matter remanded for a hearing on the merits of the November 3, 2021 overpayment decision.³

DECISION: Order No. 26-UI-331201 is set aside, and this matter remanded for further proceedings consistent with this order.

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

DATE of Service: July 22, 2026

NOTE: The failure of any party to appear at the hearing on remand will not reinstate Order No. 26-UI-331201 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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³ The record shows that the May 19, 2026 hearing addressed many issues relating to the merits of the November 3, 2021 overpayment decision. Notice can be taken of that testimony, and it is unnecessary to duplicate it at the hearing on remand, though both claimant and the Department should have the opportunity to present any additional testimony or evidence relevant to the merits of that administrative decision.



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.

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