EO: Intrastate
BYE: 27-Feb-2021

State of Oregon
Employment Appeals Board
875 Union St. N.E.
Salem, OR 97311

364
MC 000.00

EMPLOYMENT APPEALS BOARD DECISION
2026-EAB-0625

Orders No. 26-UI-333480 and 26-UI-333479 Affirmed
Late Requests for Hearing Dismissed

PROCEDURAL HISTORY: On October 24, 2022, 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 1, 2020. On November 14, 2022, the October 24, 2022 PUA determination became final without claimant having filed a request for hearing. On November 18, 2022, the Department issued an administrative decision based in part on the October 24, 2022 PUA determination, concluding that claimant willfully made a misrepresentation and failed to report a material fact to obtain benefits, and assessing a $35,680 overpayment in combined PUA and Federal Pandemic Unemployment Compensation (FPUC) benefits that claimant was required to repay, and a $5,352 monetary penalty.[1] On December 8, 2022, the November 18, 2022 overpayment decision became final without claimant having filed a request for hearing.

On February 26, 2026, claimant filed a late request for hearing on each decision. ALJ Kangas considered the requests, and on April 2, 2026 and April 3, 2026 issued Orders No. 26-UI-325860 and 26-UI-326039, dismissing the requests as late, subject to claimant's right to renew the requests by responding to an appellant questionnaire in each matter by April 16, 2026 and April 17, 2026, respectively. On April 9, 2026, claimant filed timely responses to the appellant questionnaires. On June 16, 2026, ALJ S. Lee conducted a hearing, and on June 24, 2026 issued Orders No. 26-UI-333480 and 26-UI-333479, re-dismissing claimant's requests for hearing as late without good cause.

On June 27, 2026, claimant filed applications for review of Orders No. 26-UI-333480 and 26-UI-333479 with the Employment Appeals Board (EAB). EAB combined its review of Orders No. 26-UI-333480 and 26-UI-333479 under OAR 471-041-0095 (October 29, 2006). For case-tracking purposes, this decision is being issued in duplicate (EAB Decisions 2026-EAB-0625 and 2026-EAB-0626).

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

---

[1] The overpayment decision lists the total overpayment as $36,990, while the schedule of adjustments lists it as $35,680, and the 15 percent monetary penalty was calculated based on the latter amount. Exhibit 4 at 6-7. The 2023 waiver denial decisions also list an overpayment balance of $35,680. Exhibit 4 at 13, 15.

FINDINGS OF FACT: (1) The October 24, 2022 PUA determination, mailed to claimant's address on file with the Department on October 24, 2022, 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 14, 2022." Exhibit 4 at 4. Claimant received the PUA determination shortly after it was mailed.

(2) On October 28, 2022, claimant emailed the Department to question the denial of PUA benefits. A representative responded that claimant failed to provide documentary evidence to substantiate that she had been self-employed at the start of the COVID-19 pandemic. The response further stated that claimant could provide such evidence or request a hearing on the PUA determination, and gave instructions for filing a request for hearing online.

(3) On October 30, 2022, claimant submitted to the Department a notarized document she had written stating that she had been self-employed at the start of the pandemic.

(4) On October 31, 2022, the Department replied that the document was not acceptable evidence and explained what types of evidence could satisfy the Department's requirements. The reply also told claimant that if she was unable to provide acceptable evidence, "[Y]ou need to request a hearing." Transcript at 16. Claimant replied that day that she would provide additional evidence, but did not provide anything further or file a request for hearing.

(5) The November 18, 2022 overpayment decision, mailed to claimant's address on file with the Department on November 18, 2022, stated, "If you do not agree with this decision, you may file an appeal. You must file your appeal from this decision on or before December 8, 2022 to be timely." Exhibit 4 at 5.

(6) On December 31, 2022, claimant filed a request to waive recovery of the overpayment, which was denied on January 9, 2023. Claimant filed a second waiver request on March 29, 2023, which was denied on April 6, 2023.

(7) On February 23, 2026, in response to learning that her 2025 income tax refund had been intercepted to partially satisfy the overpayment, claimant contacted the Department regarding the overpayment.

(8) On February 26, 2026, claimant filed late requests for hearing on the October 24, 2022 PUA determination and the November 18, 2022 overpayment decision.

CONCLUSIONS AND REASONS: Claimant's late requests for hearing are 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 request for hearing on the October 24, 2022 PUA determination was due by November 14, 2022. Claimant's request for hearing was filed on February 26, 2026, and was therefore late. The record shows that claimant had received the October 24, 2022 PUA determination by October 28, 2022, and communicated with a Department representative about it over the next few days. Claimant did not rebut the Department's testimony that by October 31, 2022, she had been told at least twice by the representative to file a request for hearing if she disagreed with the October 24, 2022 PUA determination and was given instructions on how to file the request online. The representative also told claimant that she could submit additional evidence for consideration regarding her PUA eligibility. Claimant did not attempt to file a request for hearing or submit additional evidence after October 31, 2022, until learning that her 2025 tax refund had been intercepted in February 2026. When asked at hearing why she did not file a request for hearing in response to these communications, claimant testified, "You know, I wish I knew exactly why I didn't. I should have. . . I don't have a good reason. . . why I did not. . . [A]ll I know is I was just dealing with a lot of [instability] in my life during that time. And I don't really know why I didn't follow through even though I should have and probably needed to." Transcript at 22.

As claimant was capable of emailing the Department and creating and submitting a notarized statement regarding her PUA eligibility during the timely filing period, it is reasonable to infer that claimant was also capable of filing a request for hearing online or through other methods during that period. Therefore, claimant has not shown that factors beyond her reasonable control or an excusable mistake prevented timely filing of a request for hearing on the October 24, 2022 PUA determination, and good cause does not exist to extend the filing deadline.

The request for hearing on the November 18, 2022 overpayment decision was due by December 8, 2022. Claimant's request for hearing was filed on February 26, 2026, and was therefore late. Claimant testified that she remembered receiving that decision but did not remember when, and that she had responded to receiving it by "trying to file. . . a waiver." Transcript at 5. When asked why she did not request a hearing by the December 8, 2022 deadline, claimant testified, "I honestly probably just wasn't realizing that I needed to file an appeal or that I should file an appeal. Or what the steps. . . would be. . . [W]hen I get paperwork like this that has a lot of things on it I get confused very easily on what I'm even reading." Transcript at 12. Claimant denied having sought assistance in understanding the decision or her appeal rights. Transcript at 12.

In considering claimant's testimony and her December 31, 2022 waiver request, it is more likely than not that claimant received the November 18, 2022 overpayment decision prior to the December 8, 2022 filing deadline.[2] To the extent claimant was asserting that she did not file a timely request for hearing because she did not know how to do so, the record does not support the assertion, as appeal instructions were included with the decision, and an option to file hearing requests online was discussed with her in late October 2022 in regard to the October 24, 2022 PUA determination. To the extent claimant was asserting that she did not understand the implications of failing to appeal the decision, OAR 471-040-0010(1)(b)(B) provides that "good cause" does not include not understanding the implications of a decision or notice when it is received. Therefore, claimant has not shown that factors beyond her reasonable control or an excusable mistake prevented timely filing of a request for hearing on the November 18, 2022 overpayment decision, and good cause does not exist to extend the filing deadline.

[2] Even if claimant did not receive the decision until December 31, 2022, and that prevented her from filing a request for hearing by the December 8, 2022 deadline, she did not file the late request for hearing until more than three years after that circumstance ended, and therefore did not file it within a "reasonable time."

Finally, claimant asserted at hearing that prior to and during the period in which the administrative decisions were issued that she was experiencing housing instability and implied that she was impacted by substance abuse. *See* Transcript at 9. However, the record suggests that claimant had resolved these issues through completing inpatient treatment and securing stable housing at some point prior to 2026. *See* Transcript at 9. Therefore, even if these were factors beyond claimant's reasonable control that prevented timely filing of requests for hearing on the administrative decisions, the factors ended more than seven days before claimant's late requests for hearing were filed on February 26, 2026, and the requests were therefore not filed within a "reasonable time." Accordingly, claimant's late requests for hearing on the October 24, 2022 PUA determination and the November 18, 2022 overpayment decision are dismissed, and those decisions remain undisturbed.

DECISION: Orders No. 26-UI-333480 and 26-UI-333479 are affirmed.

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

DATE of Service: August 6, 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 – 本判决会影响您的失业救济金。 如果您不明白本判决， 请立即联系就业上诉委员会。 如果您不同意此判决，您可以按照该判决结尾所写的说明，向俄勒冈州上诉法院提出司法复审申请。

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 فورا، و إذا كنت لا توافق على هذا القرار، يمكنك رفع شكوى للمراجعة القانونية بمحكمة الإستئناف 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.

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*