

EMPLOYMENT APPEALS BOARD DECISION
2026-EAB-0635

Reversed
Late Requests for Hearing Allowed
Merits Hearings Required

PROCEDURAL HISTORY: On October 29, 2021, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant quit working for the employer without good cause and was disqualified from receiving benefits effective July 19, 2020 (decision # 82939). On November 18, 2021, decision # 82939 became final without claimant having filed a request for hearing. On April 27, 2022, the Department served notice of an administrative decision based in partly decision # 82939, concluding that claimant received benefits to which he was not entitled and assessing an overpayment of \$4,411 in regular unemployment insurance benefits (regular UI), \$6,390 in Pandemic Emergency Unemployment Compensation (PEUC), and \$3,900 in Federal Pandemic Unemployment Compensation (FPUC) that claimant was required to repay (decision # 121844). On May 17, 2022, decision # 121844 became final without claimant having filed a request for hearing.

On April 13, 2026, claimant filed late requests for hearing on decisions # 82939 and 121844. On June 8, 2026, ALJ Christon conducted separate hearings on claimant's late requests for hearing on decisions # 82939 and 121844, and on June 15, 2026, issued Orders No. 26-UI-332802 and 26-UI-332800, dismissing claimant's requests for hearing on decisions # 82939 and 121844 as late without good cause.

On July 1, 2026, claimant filed applications for review on Orders No. 26-UI-332802 and 26-UI-332800 with the Employment Appeals Board (EAB). EAB combined its review of Orders No. 26-UI-332802 and 26-UI-332800 under OAR 471-041-0095 (October 29, 2006). For case-tracking purposes, this decision is being issued in duplicate (EAB Decisions 2026-EAB-0634 and 2026-EAB-0635).

WRITTEN ARGUMENT: Claimant's argument contained information that was not part of the hearing record and did not show that factors or circumstances beyond claimant's reasonable control prevented him 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 the parts of claimant's argument that were based on the hearing record.

FINDINGS OF FACT: (1) In 2020, claimant filed an initial claim for unemployment insurance benefits. At that time, claimant lived at an address in Beaverton, Oregon. Claimant thereafter filed weekly claims for benefits for a time.

(2) The last date upon which claimant claimed benefits was March 29, 2021.

(3) In March or April 2021, claimant moved to his aunt's home on Bridgeman Drive in West Palm Beach, Florida. In May 2021, claimant updated his address of record with the Department to the Bridgeman Drive address.

(4) Thereafter, on a date later in May 2021, claimant moved out of his aunt's home and into his own apartment. At the time claimant moved out of his aunt's home, claimant and his aunt had an argument and stopped speaking to one another.

(5) After moving to his own apartment, claimant did not update his address with the Department. He did not do so because he was not claiming benefits and therefore did not think it was necessary to give the Department updated address information.

(6) On October 29, 2021, the Department mailed decision # 82939 to claimant's address on the file with the Department, which was the Bridgeman Drive address. Decision # 82939 stated, "You have the right to appeal this decision if you do not believe it is correct. Your request for appeal must be received no later than November 18, 2021." Order No. 26-UI-332802, Exhibit 1 at 6.

(7) On April 27, 2022, the Department mailed decision # 121844 to claimant's address on file with the Department, which was the Bridgeman Drive address. Decision # 121844 stated, "If you disagree with the amount of the overpayment, you have the right to appeal this decision. Any appeal from this decision must be filed on or before May 17, 2022 to be timely." Order No. 26-UI-332800, Exhibit 1 at 7.

(8) Claimant failed to receive decisions # 82939 and # 121844 because he did not live at the Bridgeman Drive address. As claimant and his aunt had stopped speaking to one another, claimant's aunt did not forward the decisions to him.

(9) In the months and years that followed, the Department mailed overpayment invoices and garnishment materials intended for claimant to the Bridgeman Drive address. Eventually, the Department performed the legal steps necessary to garnish claimant's bank account to satisfy the overpayment established by decision # 121844. Claimant did not receive these materials and did not know that the Department had performed the legal steps necessary to garnish his bank account.

(10) On April 9, 2026, claimant noticed that his bank account had been debited pursuant to a garnishment order resulting from the overpayment created by decision # 121844. On April 13, 2026, claimant called the Department and spoke with a representative. The representative informed claimant of decisions # 82939 and 121844, and, for the first time, claimant learned of the existence of the two administrative decisions. On that date, the representative assisted claimant with filing late requests for hearing on decisions # 82939 and 121844.

CONCLUSIONS AND REASONS: Orders No. 26-UI-332802 and 26-UI-332800 are reversed, claimant's late requests for hearing are allowed, and hearings on the merits of decisions # 82939 and 121844 are 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 orders under review concluded that claimant failed to establish good cause for the late requests for hearing. Order No. 26-UI-332802 at 2-3; Order No. 26-UI-332800 at 3-4. The record does not support the conclusions of the orders under review.

The deadline to file a timely request for hearing on decision # 82939 was November 18, 2021. The deadline to file a timely request for hearing on decision # 121844 was May 17, 2022. Because claimant did not file his hearing requests for hearing until April 13, 2026, the requests were late.

Claimant established good cause to extend the deadlines to file requests for hearing on decisions # 82939 and 121844 and did so within a reasonable time. Claimant never received either administrative decision. The decisions were mailed to the Bridgeman Drive address of claimant's aunt, months after claimant moved to his own apartment. Claimant's aunt did not forward the decisions to claimant, and claimant did not learn of the existence of the administrative decisions until April 13, 2026, when he called the Department after he noticed that his bank account had been garnished.

OAR 471-040-0010(1)(b)(A) does not apply to the circumstances at hand. The last date upon which claimant claimed benefits was March 29, 2021. Claimant moved out of his aunt's home on Bridgeman Drive and into his own apartment in May 2021. Accordingly, although claimant did not update his address with the Department after moving from the Bridgeman Drive address, he had no duty to do so, and OAR 471-040-0010(1)(b)(A) does not apply because he was not claiming benefits and did not have a pending appeal at the time of the move.

Thus, claimant's failure to receive decisions # 82939 and 121844 were circumstances beyond his reasonable control that prevented him from requesting hearings in a timely manner. Those circumstances ended on April 13, 2026, when claimant learned of the decisions during the telephone conversation with the Department representative. On the same day, claimant filed requests for hearings on decisions # 82939 and 121844, which was within a seven-day reasonable time of when the circumstances preventing a timely filing had ended.

For these reasons, claimant established good cause to extend the deadlines to file hearing requests on decisions # 82939 and 121844 and did so within a reasonable time. Orders No. 26-UI-332802 and 26-UI-332800 therefore are reversed, claimant's late requests for hearings are allowed, and claimant is entitled to hearings on the merits of each administrative decision.

DECISION: Orders No. 26-UI-332802 and 26-UI-332800 are set aside, and these matters remanded for further proceedings consistent with this order.

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

DATE of Service: August 10, 2026

NOTE: The failure of any party to appear at the hearings on remand will not reinstate Order No. 26-UI-332802 or Order No. 26-UI-332800, or return these matters to EAB. Only a timely applications for review of the orders mailed to the parties after the remand hearings will return either of these matters to EAB.

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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.

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