

EMPLOYMENT APPEALS BOARD DECISION
2026-EAB-0694

Affirmed
Late Requests for Hearing Dismissed

PROCEDURAL HISTORY: On August 19, 2014, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant voluntarily left work without good cause and was disqualified from receiving unemployment insurance benefits effective July 20, 2014 (decision # 163105). On September 5, 2014, the Department served notice of an administrative decision based partly on decision # 163105, concluding that claimant willfully made a misrepresentation and failed to report a material fact to obtain benefits and assessing a \$3,920 overpayment that claimant was required to repay to the Department, a \$1,176 monetary penalty, and a 52-week penalty disqualification from future benefits (decision # 194261). On September 8, 2014, decision # 163105 became final without claimant having filed a request for hearing. On September 25, 2014, decision # 194261 became final without claimant having filed a request for hearing.

On June 30, 2026, claimant filed late requests for hearing on decisions # 163105 and 194261. ALJ Kangas considered claimant's requests, and on July 15, 2026 issued Orders No. 26-UI-335122 and 26-UI-335120, dismissing the requests as late, subject to claimant's right to renew the requests by responding to an appellant questionnaire by July 29, 2026.¹ On August 3, 2026, claimant filed a timely application for review of Orders No. 26-UI-335122 and 26-UI-335120 with the Employment Appeals Board (EAB) that included an appellant questionnaire response. EAB combined its review of Orders No. 26-UI-335122 and 26-UI-335120 under OAR 471-041-0095 (October 29, 2006). For case-tracking purposes, this decision is being issued in duplicate (EAB Decisions 2026-EAB-0694 and 2026-EAB-0693).

EVIDENTIARY MATTER: EAB has considered additional evidence when reaching this decision under OAR 471-041-0090(1) (May 13, 2019). The additional evidence is claimant's appellant questionnaire response, has been marked as EAB Exhibit 1, and provided to the parties with this decision. Any party that objects to EAB taking notice of this information must send their objection to

¹ Although the employer, Imperial Manufacturing Ice, was a party to decision # 163105, Order No. 26-UI-335122 did not list them on the certificate of mailing of that order and they presumably were not served with the order. EAB's consolidated decisions are being mailed to the employer.

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 exhibit will remain in the record.

FINDINGS OF FACT: (1) On August 19, 2014, the Department mailed decision # 163105 to claimant's address of record. Decision # 163105 stated, "Any appeal from this decision must be filed on or before Sep 08, 2014 to be timely." Order No. 26-UI-335122 Exhibit 1 at 2.

(2) On September 5, 2014, the Department mailed decision # 194261 to claimant's address of record. Decision # 194261 stated, "To be timely, any appeal from this decision must be filed on or before SEPTEMBER 25, 2014." Order No. 26-UI-335120 Exhibit 1 at 1.

(3) Presumably, both decision # 163105 and decision # 194261 were received by claimant at their address of record shortly after the decisions were mailed. On September 8, 2014, decision # 163105 became final without claimant having filed a request for hearing. On September 25, 2014, decision # 194261 became final without claimant having filed a request for hearing.

(4) Claimant had problems with substance abuse. In August 2024, claimant began serving a term of imprisonment. Claimant continued as an adult in custody in a transitional program until February 2026. After their release from custody, claimant "learned of this UI overpayment." EAB Exhibit 1.

(5) In March 2026, claimant applied for a waiver of recovery of the overpayment created by decision # 194261. The Department denied the waiver request on March 17, 2026. That day, a Department Representative mailed a copy of decision # 194261 to claimant's address of record.²

(6) Claimant presumably received this additional copy of decision # 194261 shortly after it was mailed. On June 30, 2026, claimant called the Department and, with the assistance of a representative, filed late requests for hearing on decisions # 163105 and 194261 by phone.

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 deadline to file requests for hearing on decisions # 163105 and 194261 were September 8 and September 25, 2014, respectively. Claimant filed their requests for hearing on June 30, 2026. Claimant's hearing requests were therefore late.

Claimant failed to establish good cause to extend the deadlines to file hearing requests on decisions # 163105 and 194261. There is a presumption that a letter duly directed and mailed was received in the

² EAB has taken notice of the facts contained in this paragraph, which are contained in Employment Department records. OAR 471-041-0090(1) (May 13, 2019). 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.

regular course of the mail. *See* OAR 137-003-0520(10) (January 31, 2012) (“Documents sent through the U.S. Postal Service by regular mail are presumed to have been received by the addressee, subject to evidence to the contrary.”). Claimant did not rebut the presumption that these administrative decisions, mailed in September 2014, were received by claimant in the regular course of the mail. Although claimant had substance abuse problems and, in August 2024, became incarcerated, claimant did not assert or show that these circumstances interfered with their ability to receive the administrative decisions when they were mailed to their address of record in September 2014, some ten years before claimant’s period of incarceration began. As the administrative decisions presumably were received by claimant shortly after they were mailed in September 2014, and each contained a notice advising of claimant’s appeal rights and the deadline by which to appeal, claimant did not establish that a factor beyond their reasonable control or an excusable mistake prevented them from appealing by the respective September 8 and September 25, 2014 deadlines.

Furthermore, as to decision # 194261, Department records show that on March 17, 2026, the Department mailed an additional copy of that administrative decision to claimant’s address of record shortly after claimant applied for a waiver of recovery of the overpayment created by decision # 194261, and that waiver request was denied. This additional copy of decision # 194261 also presumably was received by claimant shortly after it was mailed. Accordingly, even if claimant had not originally received that decision in 2014, they would have received the second copy shortly after March 17, 2026, and any circumstance beyond their control preventing a timely filing of decision # 194261 would have ended at that point. Claimant’s late appeal of decision # 194261 is therefore also subject to dismissal because claimant did not file their late request for hearing until June 30, 2026, which would not have been within a seven-day “reasonable time” of when the circumstances beyond claimant’s reasonable control would have ended, even if they had not received the decision when it was originally mailed in 2014.

For these reasons, claimant’s late requests for hearing on decisions # 163105 and 194261 are dismissed.

DECISION: Orders No. 26-UI-335122 and 26-UI-335120 are affirmed.

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

DATE of Service: August 31, 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.surveymizmo.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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The Oregon Employment Department is an equal opportunity employer/program. Auxiliary aids and services are available upon request to individuals with disabilities. Language assistance is available to persons with limited English proficiency at no cost.

El Departamento de Empleo de Oregon es un programa que respeta la igualdad de oportunidades. Disponemos de servicios o ayudas auxiliares, formatos alternos y asistencia de idiomas para personas con discapacidades o conocimiento limitado del inglés, a pedido y sin costo.