

EMPLOYMENT APPEALS BOARD DECISION
2026-EAB-0707

Reversed & Remanded

PROCEDURAL HISTORY AND FINDINGS OF FACT: On November 10, 2020, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant quit work without good cause and was disqualified from receiving unemployment insurance benefits effective July 5, 2020 (decision # 81653). On November 30, 2020, decision # 81653 became final without claimant having filed a request for hearing. On November 15, 2021, the Department served notice of an administrative decision based partly on decision # 81653, concluding that claimant received benefits to which they were not entitled, and assessing an overpayment of \$1,800 in Lost Wages Assistance (LWA) benefits that claimant was required to repay (decision # 0555609). On December 6, 2021, decision # 0555609 became final without claimant having filed a request for hearing. On February 2, 2022, the Department served notice of an administrative decision also based partly on decision # 81653, concluding that claimant willfully made a misrepresentation and failed to report a material fact to obtain benefits, and assessing an overpayment of \$11,640 in combined regular unemployment insurance (regular UI), Federal Pandemic Unemployment Compensation (FPUC), and LWA benefits that claimant was required to repay, a \$1,968 monetary penalty, and a 52-week penalty disqualification from future benefits.¹ On the February 22, 2022, the February 2, 2022 overpayment decision became final without claimant having filed a request for hearing.

On March 4, 2022, claimant filed late requests for hearing on decisions # 81653 and 0555609 and the February 2, 2022 overpayment decision. ALJ Kangas considered claimant's requests, and on June 6, 2022 issued Order No. 22-UI-195372, dismissing claimant's late request for hearing on decision # 0555609, subject to claimant's right to renew the request by responding to an appellant questionnaire by June 20, 2022. On June 13, 2022, ALJ Kangas issued Orders No. 22-UI-195949 and 22-UI-195950, dismissing claimant's late requests for hearing on decision # 81653 and the February 2, 2022 overpayment decision, subject to claimant's right to renew the requests by responding to an appellant questionnaire by June 27, 2022. On June 27, 2022, Order No. 22-UI-195372 became final without claimant having responded to the appellant questionnaire for decision # 0555609 or filing an application

¹ The February 2, 2022 overpayment decision appears to have assessed an overpayment of \$1,800 in LWA for the same weeks as had already been addressed in decision # 0555609. It is not clear why the Department assessed two overpayments for the same type of benefits and period of weeks.

for review with the Employment Appeals Board (EAB). On July 5, 2022, Orders No. 22-UI-195949 and 22-UI-195950 became final without claimant having responded to the appellant questionnaires for decision # 81653 and the February 2, 2022 overpayment decision, or filing applications for review with EAB.

On July 12, 2026, claimant filed late responses to the appellant questionnaires in each of these three matters. ALJ Kangas received claimant's responses, and on July 30, 2026, issued Orders No. 26-UI-336316, 26-UI-336298, 26-UI-336289, declining to consider the responses to the appellant questionnaires because they were late and re-dismissing claimant's late requests for hearing on decisions # 81653 and 0555609 and the February 2, 2022 overpayment decision.

On August 7, 2026, claimant filed applications for review of Orders No. 26-UI-336316, 26-UI-336298, 26-UI-336289 with the Employment Appeals Board (EAB). EAB combined its review of the orders under OAR 471-041-0095 (October 29, 2006). For case-tracking purposes, this decision is being issued in triplicate (EAB Decisions 2026-EAB-0709, 2026-EAB-0708, and 2026-EAB-0707).

EVIDENTIARY MATTER: Claimant's appellant questionnaire responses were not filed by the dates that Orders No. 22-UI-195949, 22-UI-195372, and 22-UI-195950 became final (June 27, 2022 and July 5, 2022, respectively). The late questionnaire responses were marked for identification as Exhibit 3 to each of the orders under review, but were not considered as evidence by the ALJ and, as such, are not evidence in the hearing record. However, the record shows that factors or circumstances beyond claimant's reasonable control prevented them from filing the appellant questionnaire responses prior to Orders No. 22-UI-195949, 22-UI-195372, and 22-UI-195950 becoming final. This is so because, as discussed further below, claimant had limited proficiency in English at the time. Additionally, the information in claimant's responses to the appellant questionnaire is relevant and material to the determination of whether their late requests for hearing should be allowed. Accordingly, under ORS 657.275(2) and OAR 471-041-0090 (May 13, 2019), EAB considered the late appellant questionnaire responses when reaching this decision.

WRITTEN ARGUMENT: The argument claimant submitted on August 18, 2026 contained information that was not included in his responses to the appellant questionnaires or otherwise offered into the hearing record, and did not show that factors or circumstances beyond claimant's reasonable control prevented them from doing so. Under ORS 657.275(2) and OAR 471-041-0090 (May 13, 2019), EAB did not consider the new information in claimant's written argument.

The parties may offer new information, such as the new information in claimant's written argument, into evidence at the remand hearing. At that time, the ALJ will determine if the new information will be admitted into the record. The parties must follow the instructions on the notice of the remand hearing about documents they wish to have considered at the hearing. These instructions will direct the parties to provide copies of such documents to the ALJ and the other parties before the hearing at their addresses on the certificate of mailing for the notice of hearing.

CONCLUSIONS AND REASONS: Orders No. 26-UI-336316, 26-UI-336298, and 26-UI-336289 are set aside and these matters remanded for a hearing on whether to allow claimant's late requests for hearing on decisions # 81653 and 0555609 and the February 2, 2022 overpayment decision, and if so, the merits of those decisions.

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 requests for hearing on decisions # 81653 and 0555609 and the February 2, 2022 were due by November 30, 2020, December 6, 2021, and February 22, 2022, respectively. Because claimant did not file their request for hearing on any of those decisions until March 4, 2022, the requests were late.

In their response to the appellant questionnaire for Order No. 22-UI-195949,² claimant explained that their English "was very limited" at the time they received the administrative decisions, and that they "wanted to challenge the decision[s] but did not know what to do or where to get help." Order No. 26-UI-336316, Exhibit 3 at 3. Claimant further explained that they believed they had good cause for filing the late requests for hearing because they "did not understand the unemployment process or the paperwork" at the time and "did not know what steps [they] needed to take or where to get help[.]" Order No. 26-UI-336316, Exhibit 3 at 3.

Claimant's above response suggests that they may have been unable to file timely requests for hearing on one or more of the administrative decisions due to their inability to understand the documentation because of a language barrier, which might have constituted a factor or circumstance beyond their reasonable control. However, further information is necessary to determine whether claimant had good cause for filing the late requests for hearing and, if so, whether they filed the requests within a reasonable time after the factors preventing their timely filing ended.

On remand, the ALJ should first inquire as to when, if at all, claimant received each of the three administrative decisions. Next, the ALJ should inquire as to the extent of claimant's English proficiency at the time each of the three administrative decisions were issued, including what information in each of those decisions, if any, claimant was able to understand. The ALJ should likewise inquire as to whether, at the time claimant received each of those decisions, claimant was aware of or had access to any persons or resources who could interpret the administrative decisions for claimant; if so, who those persons or resources are, what circumstances, if any, prevented claimant from immediately accessing them after receiving the administrative decisions; and when, if at all, claimant did access those resources to obtain help in understanding the decisions. If claimant did not have access to or otherwise access such resources, the ALJ should inquire as to how claimant was ultimately able to understand the administrative decisions well enough to know how to file their requests for hearing, and when that occurred. The ALJ should also inquire as to whether any other factors or circumstances prevented claimant from filing timely requests for hearing on each of the three decisions and, if so, when those factors or circumstances ended.

Orders No. 26-UI-336316, 26-UI-336298, and 26-UI-336289 therefore are set aside, and these matters remanded for a hearing on whether to allow claimant's late requests for hearing on decisions # 81653 and 0555609 and the February 2, 2022 overpayment decision, and if so, the merits of those decisions.

² Claimant's responses to all three appellant questionnaires are substantially similar, and a separate discussion of each of the three responses is therefore unnecessary. For the purposes of this decision, claimant's response to the questionnaire mailed with Order No. 22-UI-195949 is discussed because it contains the most detail.

DECISION: Orders No. 26-UI-336316, 26-UI-336298, and 26-UI-336289 are set aside, and these matters remanded for further proceedings consistent with this order.

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

DATE of Service: September 16, 2026

NOTE: The failure of any party to appear at the hearing on remand will not reinstate Orders No. 26-UI-336316, 26-UI-336298, or 26-UI-336289 or return these matters to EAB. Only timely applications for review of the orders mailed to the parties after the remand hearing will return 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

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 دستور العمل موجود در پایان آن، از دادگاه تجدید نظر اورگان درخواست تجدید نظر کنید.

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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.