

EMPLOYMENT APPEALS BOARD DECISION
2026-EAB-0750

Late Applications for Review Dismissed

PROCEDURAL HISTORY: On March 13, 2026, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant was not available for work and ineligible for unemployment insurance benefits effective November 16, 2026, and that claimant had been overpaid \$678 in benefits that he was required to repay to the Department (decision # L0016468641). Also on March 13, 2026, the Department served notice of an administrative decision concluding that claimant was not available for work and ineligible for benefits effective February 1, 2026 (decision # L0016553154). Claimant filed timely requests for hearing on both decisions.

On April 15, 2026, ALJ Frank conducted a hearing on both decisions. On April 23, 2026, ALJ Frank issued Order No. 26-UI-328122, modifying decision # L0016468641 by concluding that claimant was not available for work and ineligible for benefits from November 16, 2025 through April 11, 2026 (weeks 47-25 through 14-26), and was liable for an overpayment of \$678; and Order No. 26-UI-328120, modifying decision # L0016553154 by concluding that claimant was not available for work and ineligible for benefits from February 1 through April 11, 2026 (weeks 05-26 through 14-26).¹ On May 13, 2026, Orders No. 26-UI-328122 and 26-UI-328120 became final without claimant having filed applications for review with the Employment Appeals Board (EAB).

On August 19, 2026, claimant filed late applications for review of Orders No. 26-UI-328122 and 26-UI-328120 with EAB. EAB combined its review of Orders No. 26-UI-328122 and 26-UI-328120 under OAR 471-041-0095 (October 29, 2006). For case-tracking purposes, this decision is being issued in duplicate (EAB Decisions 2026-EAB-0750 and 2026-EAB-0751).

EVIDENTIARY MATTER: EAB has considered additional evidence when reaching this decision under OAR 471-041-0090(1) (May 13, 2019). The additional evidence consists of claimant's written statement enclosed with the applications for review, marked as EAB Exhibit 1; and four emails from an Office of Administrative Hearings (OAH) hearing coordinator, marked as EAB Exhibit 2. These

¹ Although the orders under review each stated that they affirmed the respective administrative decisions under review, they modified those decisions by changing the dates of ineligibility. Orders No. 26-UI-328122 at 5; Order No. 26-UI-328120 at 4.

exhibits have been provided to the parties with this decision. 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 exhibits will remain in the record.

WRITTEN ARGUMENT: Claimant submitted written arguments on August 20, 21, and 27, 2026. All three of claimant's arguments 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. Additionally, much of the new information in the first two arguments was not relevant and material to EAB's determination of whether claimant's late applications for review should be allowed. Under ORS 657.275(2) and OAR 471-041-0090, and with the exception of EAB Exhibits 1 and 2, above, EAB considered only information received into evidence at the hearing. EAB considered any parts of claimant's arguments that were based on the hearing record.

FINDINGS OF FACT: (1) Order No. 26-UI-328122, mailed to claimant on April 23, 2026, stated, "You may appeal this decision by filing the attached form Application for Review with the Employment Appeals Board within 20 days of the date that this decision is mailed." Order No. 26-UI-328122 at 6. Order No. 26-UI-328122 also stated on its Certificate of Mailing, "Any appeal from this Order must be filed on or before May 13, 2026 to be timely."

(2) Order No. 26-UI-328120, mailed to claimant on April 23, 2026, stated, "You may appeal this decision by filing the attached form Application for Review with the Employment Appeals Board within 20 days of the date that this decision is mailed." Order No. 26-UI-328120 at 4. Order No. 26-UI-328120 also stated on its Certificate of Mailing, "Any appeal from this Order must be filed on or before May 13, 2026 to be timely."

(3) Claimant was not initially aware of the issuance of Orders No. 26-UI-328122 and 26-UI-328120, as he did not receive them in the mail prior to the date on which they became final. Claimant later sent an inquiry to the Department, via Frances Online, as to "why [he] was being continually denied benefits without explanation." EAB Exhibit 1 at 1.

(4) On June 17, 2026, an OAH hearing coordinator sent an email to claimant, with attachments of four hearings orders, including orders for the two cases at issue here. EAB Exhibit 2 at 1.

(5) On June 26, 2026, the same hearing coordinator sent another email to claimant, again attaching copies of the same four hearing orders. EAB Exhibit 2 at 2.

(6) On July 6, 2026, the same hearing coordinator sent another email to claimant, again attaching copies of the same four hearing orders. EAB Exhibit 2 at 3.

(7) On August 4, 2026, the same hearing coordinator sent another email to claimant which included a link to the application for review form on EAB's website, as well as instructions on how to find the case numbers on the orders they had previously sent claimant. EAB Exhibit 2 at 4.

(8) On August 19, 2026, claimant filed late applications for review of Orders No. 26-UI-328122 and 26-UI-328120.

CONCLUSIONS AND REASONS: Claimant's late applications for review of Orders No. 26-UI-328122 and 26-UI-328120 are dismissed.

An application for review is timely if it is filed within 20 days of the date that the Office of Administrative Hearings (OAH) mailed the order for which review is sought. ORS 657.270(6); OAR 471-041-0070(1) (May 13, 2019). The 20-day filing period may be extended a "reasonable time" upon a showing of "good cause." ORS 657.875; OAR 471-041-0070(2). "Good cause" means that factors or circumstances beyond the applicant's reasonable control prevented timely filing. OAR 471-041-0070(2)(a). A "reasonable time" is seven days after the circumstances that prevented the timely filing ended. OAR 471-041-0070(2)(b). A late application for review will be dismissed unless it includes a written statement describing the circumstances that prevented a timely filing. OAR 471-041-0070(3).

The applications for review of Orders No. 26-UI-328122 and 26-UI-328120 were due by May 13, 2026. Because claimant did not file his applications for review on either order until August 19, 2026, the applications for review were late.

In his statement enclosed with the late applications for review, claimant indicated that he had not received or otherwise been informed of "a decision/verdict following the hearings on April 15, 2026," and that he "didn't find out until [he] inquired in [F]rances as to why [he] was being continually denied benefits without explanation." EAB Exhibit 1 at 1. Claimant further explained that it "took yet another couple of months for [him] to obtain the decisions and then" determine how to appeal them. EAB Exhibit 1 at 1. This explanation suggests that claimant was prevented from filing timely applications for review due to not having received the orders under review prior to the timely filing deadlines, which would constitute a circumstance beyond his reasonable control.

Claimant also indicated on his written statement that the circumstances that prevented him from timely filing his applications for review ended on August 17, 2026, but he did not explain why they ended on that date, and the record does not otherwise support an inference that they persisted for so long. Instead, the record shows that claimant had been conversing with an OAH hearing coordinator between at least June 17, 2026 and August 4, 2026, that the hearing coordinator indicated that they were attaching copies of the orders under review to their emails to claimant on three separate occasions in June and July 2026, and that on August 4, 2026, the hearing coordinator also sent claimant a link to the page on EAB's website where he could file an application for review, along with some instructions to help claimant with the process. EAB Exhibit 2 at 1-4.

The fact that the hearing coordinator sent claimant the orders under review three separate times suggests that claimant may have had some difficulty in receiving or viewing the attachments. However, on the last email, dated August 4, 2026, the coordinator stated, in relevant part, "I did not realize the [application for review] form was not attached to the decisions I sent you." EAB Exhibit 2 at 4. This suggests that claimant had responded to the coordinator's previous email, dated July 6, 2026, with concerns that he had received the orders under review but not the application for review form. Absent evidence to the contrary, the record shows that claimant likely had received the orders under review, the application for review form, and instructions on how to file the applications for review, no later than August 4, 2026. This is therefore the latest date on which the circumstances which had prevented claimant's timely filings ended. Because claimant did not file his applications for review until August 19, 2026, which was outside the seven-day "reasonable time" period under OAR 471-041-0070(2)(b),

claimant did not file his late applications for review within a reasonable time. As such, claimant's late applications for review on Orders No. 26-UI-328122 and 26-UI-328120 are dismissed.

DECISION: The applications for review filed August 19, 2026 are dismissed. Orders No. 26-UI-328122 and 26-UI-328120 remain undisturbed.

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

DATE of Service: October 5, 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.

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

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.