

EMPLOYMENT APPEALS BOARD DECISION
2026-EAB-0764

Modified
Overpayment and Penalties

PROCEDURAL HISTORY: On November 3, 2021, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant willfully made a misrepresentation and failed to report a material fact to obtain benefits, and assessing a \$14,930 overpayment in combined Pandemic Unemployment Assistance (PUA), Lost Wages Assistance (LWA), and Federal Pandemic Unemployment Compensation (FPUC) benefits that claimant was required to repay to the Department, and a \$2,059.50 monetary penalty. On November 23, 2021, the November 3, 2021 overpayment decision became final without claimant having filed a request for hearing. On April 29, 2022, claimant filed a late request for hearing. ALJ Kangas considered the request, and on August 3, 2022 issued Order No. 22-UI-199592, dismissing claimant's request for hearing as late, subject to claimant's right to renew the request by responding to an appellant questionnaire by August 17, 2022. On August 23, 2022, Order No. 22-UI-199592 became final without claimant having filed an appellant questionnaire response or an application for review with the Employment Appeals Board (EAB).

On January 12, 2026, claimant filed a late appellant questionnaire response.¹ ALJ Kangas reviewed the response, and on January 29, 2026 issued Order No. 26-UI-318599, cancelling Order No. 22-UI-199592, declining to consider claimant's appellant questionnaire response because it was filed late, and re-dismissing the late request for hearing on the November 3, 2021 overpayment decision. On February 4, 2026, claimant filed a timely application for review of Order No. 26-UI-318599 with EAB. On March 19, 2026, EAB issued EAB Decision 2026-EAB-0120, affirming without prejudice Order No. 26-UI-318599. Also on March 19, 2026, claimant filed a request for reconsideration of EAB Decision 2026-EAB-0120. On April 30, 2026, EAB issued EAB Decision 2026-EAB-0120-R, reversing on reconsideration EAB Decision 2026-EAB-0120, reversing Order No. 26-UI-318599, and remanding the

¹ The filing was in the form of a late application for review of Order No. 22-UI-199592 filed with EAB on January 12, 2026, an email claimant sent to EAB the same day, and a related email EAB forwarded to the Office of Administrative Hearings (OAH) the following day. Exhibit 3 at 1-3. These documents contained statements that could be construed as explaining why either the requests for hearing or an appellant questionnaire response, or both, were not timely filed. As such, the filing was treated collectively as a late appellant questionnaire response and forwarded to OAH.

matter for a hearing to determine whether claimant's late request for hearing on the November 3, 2021 overpayment decision should be allowed and, if so, the merits of that decision.

On May 19, 2026, ALJ Goodrich conducted a hearing, and on May 27, 2026 issued Order No. 26-UI-331201, dismissing claimant's request for hearing as late without good cause and leaving the November 3, 2021 overpayment decision undisturbed. On June 10, 2026, claimant filed an application for review of Order No. 26-UI-331201 with EAB. On July 22, 2026, EAB issued EAB Decision 2026-EAB-0597, reversing Order No. 26-UI-331201, allowing claimant's late request for hearing on the November 3, 2021 overpayment decision, and remanding the matter for a hearing on the merits of that decision.

On August 10, 2026, ALJ Goodrich conducted a hearing, and on August 21, 2026 issued Order No. 26-UI-337986, affirming the November 3, 2021 overpayment decision on the merits. On August 27, 2026, claimant filed an application for review of Order No. 26-UI-337986 with EAB.

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

PARTIAL ADOPTION: EAB considered the entire hearing record, including witness testimony and any exhibits admitted as evidence. EAB agrees with the part of Order No. 26-UI-337986 concluding that claimant willfully made a misrepresentation and failed to report a material fact to obtain benefits. That part of Order No. 26-UI-337986 is **adopted**. See ORS 657.275(2). The remainder of this order addresses the amount of overpayment and penalties for which claimant is liable.

FINDINGS OF FACT: (1) On August 28, 2020, an initial claim for PUA benefits was filed on claimant's behalf by an acquaintance, and with claimant's approval. The Department determined that claimant's claim was monetarily valid, with a weekly benefit amount of \$205.

(2) Claimant, or in some cases his acquaintance on his behalf, subsequently claimed benefits for the weeks of March 22, 2020 through April 25, 2020 (weeks 13-20 through 17-20), May 3 through 9, 2020 (week 19-20), May 17, 2020 through June 27, 2020 (weeks 21-20 through 26-20), July 5, 2020 through August 22, 2020 (weeks 28-20 through 34-20), and September 13, 2020 through November 21, 2020 (weeks 38-20 through 47-20). These are the weeks at issue.

(3) For all of the weeks at issue, the Department paid claimant a combined total of \$4,510 in PUA benefits. The Department did not pay claimant any PUA benefits for weeks 13-20 through 15-20, 32-20 through 34-20, or 38-20.

(4) For all of weeks 16-20 through 17-20 and 21-20 through 30-20, the Department paid claimant a combined total of \$6,600 in FPUC benefits.

(5) For week 31-20, the Department paid claimant \$300 in LWA benefits.

(6) On October 28, 2021, the Department issued an amended Notice of Determination of PUA, concluding that claimant was not eligible for PUA benefits effective March 22, 2020. On July 22, 2026, after proceedings concerning the timeliness of claimant's appeal on that decision, EAB ultimately issued EAB Decision 2026-EAB-0596, affirming the merits of the October 28, 2021 PUA determination. As of

the date of this decision, claimant has not filed a petition for judicial review of EAB Decision 2026-EAB-0596.²

CONCLUSIONS AND REASONS: Order No. 26-UI-337986 is modified. Claimant is liable for an overpayment of \$4,510 in PUA benefits, \$6,600 in FPUC benefits, and \$300 in LWA benefits, and a monetary penalty of \$1,666.50, that he is required to repay to the Department.

A claimant who was overpaid benefits because the claimant, regardless of their knowledge or intent, made or caused to be made a false statement or misrepresentation of a material fact, or failed to disclose a material fact, must repay the benefits or have the benefit amount deducted from future benefits otherwise payable to them. An overpayment may only be deducted from any future benefits the claimant is eligible to receive within the five years after the decision concluding there was an overpayment becomes final. ORS 657.310(1)(a).

Federal guidance provides, “The terms and conditions of the state law which apply to claims for regular compensation and extended benefits and the payment thereof shall apply to claims for PUA and the payment thereof except as provided in these operating instructions and any additional guidance issued regarding the PUA program.” U.S. Dep’t of Labor, Unemployment Program Information Letter (“UIPL”) No. 16-20 at I-11 (April 5, 2020). Overpayment of PUA benefits is governed by 15 U.S.C. § 9021(d)(4), which provides, “In the case of individuals who have received amounts of pandemic unemployment assistance to which they were not entitled, the State shall require such individuals to repay the amount of such pandemic unemployment assistance to the State agency,” unless the state agency waives repayment. Further, per UIPL 16-20 Change 4 at I-26, “[T]he State agency must recover the amount of PUA to which an individual was not entitled in accordance with the same procedures as apply to recovery of overpayments of regular [unemployment insurance] paid by the State.”

Similarly, overpayment of FPUC benefits is governed by 15 U.S.C. § 9023(f)(2), which provides that “[i]n the case of individuals who have received amounts of Federal Pandemic Unemployment Compensation or Mixed Earner Unemployment Compensation to which they were not entitled, the State shall require such individuals to repay the amounts of such Federal Pandemic Unemployment Compensation or Mixed Earner Unemployment Compensation to the State agency,” unless the state agency waives repayment.

In the case of any individual who has received amounts of Lost Wages Assistance benefits to which the individual is not entitled, the State shall require the individual to repay the amounts of such assistance to the State agency, unless the state agency waives repayment. Pub. L. 116-260, div. N, title II, § 262(b), Dec. 27, 2020, 134 Stat. 1962.

With respect to PUA benefits, federal guidance provides that “[a]n individual commits fraud if he or she knowingly has made or caused to be made by another, a false statement or representation of a material fact... and as a result of such false statement or representation... has received an amount of PUA to which such individual was not entitled.” U.S. Dep’t of Labor, Unemployment Insurance Program Letter

² EAB has taken notice of this fact, which is 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 fact will remain in the record.

No. 16-20, Change 4 (January 8, 2021), at 24. “States must apply a 15 percent penalty to an individual’s overpayment when the state determines that it made an erroneous PUA payment to an individual due to fraud the individual committed.” *Id.* Per federal guidance, the minimum 15 percent monetary penalty is applicable to the amount of an individual’s FPUC overpayment as well. U.S. Dep’t of Labor, Unemployment Insurance Program Letter No. 20-21 (May 5, 2021) at 4-5.

On July 22, 2026, EAB issued EAB Decision 2026-EAB-0596, affirming the merits of the October 28, 2021 PUA determination by concluding that claimant was not eligible for PUA benefits for the weeks at issue. Claimant did not file a petition for judicial review and the decision that claimant was not eligible for PUA benefits has become final as a matter of law. By extension, claimant was also not eligible for FPUC or LWA benefits for the weeks at issue.³ Based on this, the order under review concluded that for the weeks at issue, claimant had been overpaid \$5,330 in PUA benefits, \$8,400 in FPUC benefits, and \$1,200 in LWA benefits that he was required to repay to the Department. Order No. 26-UI-337986 at 6, 7, 9. The record does not support these conclusions as to the specific amounts listed above.

The order under review appears to have based its above conclusions on the original Schedule of Adjustments enclosed with the November 3, 2021 overpayment decision, as the sums listed there match those above. *See* Exhibit 1 at 7–8. However, the Department’s exhibit also included a register of all of the checks issued to claimant for benefits for the weeks at issue. *See* Exhibit 1 at 28–30. That register lists a number of checks, for all three benefit types, that were issued for some of the weeks at issue but which were “cancelled”—i.e., not paid. Exhibit 1 at 28–30. When accounting for the cancelled checks, the register shows totals of \$5,125 in PUA benefits, \$7,800 in FPUC benefits, and \$1,200 in LWA benefits that claimant was purportedly paid for the weeks at issue. Exhibit 1 at 28–30.

Furthermore, at hearing, the Department’s witness testified to additional cancellations of benefit payments for some of the weeks at issue, beyond those listed in the above register. In brief, she testified that claimant had received no PUA benefits for weeks 13-20 through 15-20, no FPUC benefits for weeks 14-20 through 15-20, and no LWA benefits for weeks 32-20 through 34-20. *See* August 1, 2026 Transcript at 13–15; 32–34. Thus, when accounting for these additional cancellations, the record shows that claimant was actually paid \$4,510 in PUA benefits, \$6,600 in FPUC benefits, and \$300 in LWA benefits for the weeks at issue. The facts have been found accordingly, and these are therefore the correct amounts to be reflected in the overpayment for which claimant is liable.

In light of the above, the monetary penalty assessed as a result of claimant’s willful misrepresentation must also be recalculated. The 15% monetary penalty provided for under Federal guidance applies only to the overpaid PUA and FPUC benefits, and not the overpaid LWA benefits. As claimant was overpaid a total of \$11,110 in PUA and FPUC benefits as a result of willful misrepresentation, claimant is liable for a monetary penalty of \$1,666.50.

DECISION: Order No. 26-UI-337986 is modified, as outlined above.

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

³ *See* U.S. Dep’t of Labor, UIPL No. 15-20, (April 4, 2020) at 2-3; UIPL No. 15-20, (April 4, 2020) at I-5; Presidential Memorandum, Authorizing the Other Needs Assistance Program for Major Disaster Declarations Related to Coronavirus Disease 2019, § 4.

DATE of Service: October 9, 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

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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.

Employment Appeals Board - 875 Union Street NE | Salem, OR 97311

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