



Rights Of Review Of An Order From The Office of Administrative Hearings

I missed my hearing, and the case was decided without me. What can I do?

You can ask that the hearing be reopened to tell your side. See ORS 657.270 (page 2). The request must be in writing, filed within 20 days from the date the order was mailed, and submitted to the Office of Administrative Hearings and Employment Department. **You must include an explanation for why you failed to appear at the hearing, or your request will be dismissed. Unless your explanation shows that an excusable mistake or circumstances beyond your reasonable control prevented you from appearing at the hearing, your request will be denied.**

I disagree with the way the ALJ decided my case. What can I do?

You can file an application for review with the Employment Appeals Board that asks for EAB to review your case and issue a new decision. An application for review may be filed online on the EAB website, at: www.oregon.gov/employ/pages/employment-appeals-board.aspx

You can also file an application for review in person, by mail, by fax, or by emailing the EAB office or any office of the Employment Department, or the Office of Administrative Hearings. Forms are available on the EAB website. If you do not use one of EAB's forms, your application for review should include:

- a) The claimant's name
- b) The order number
- c) The case number
- d) The order's mailing date
- e) The applicant's or representative's name
- f) The applicant's or representative's postal and email addresses

What is the deadline for an Application for Review?

Your application for review must be filed within 20 days from the date the order was mailed. See OAR 471-041-0065 and OAR 471-041-0070 (page 2). You may still file an application for review after 20 days, but it will be a late application for review. Late applications for review must include a statement explaining what factors or circumstances happened that were beyond your reasonable control that prevented you from filing the application for review on time. EAB must dismiss the late application unless it was filed within 7 days from when those circumstances stopped. See OAR 471-041-0070 (page 2).

Questions?

About a reopen request: contact the Office of Administrative Hearings.
About an application for review: contact the Employment Appeals Board.

Employment Appeals Board

875 Union Street NE
Salem, OR 97311
Phone: (503) 378-2077 or 1-800-734-6949
Fax: (503) 378-2129
TDD: 711
Email: appealsboard@employ.oregon.gov
www.oregon.gov/employ/pages/employment-appeals-board.aspx

Office of Administrative Hearings

PO Box 14020
Salem, OR 97309-4020
Phone: (503) 947-1515 or 1-800-311-3394
Fax: (503) 947-1531
TDD: 711
www.oregon.gov/oah/pages/default.aspx

Excerpts from Laws and Rules Governing Review of an Order from the Office of Administrative Hearings:

ORS 657.270 Hearing; Request to Reopen; Dismissal of Request for Hearing * * * (7)(a) The administrative law judge may dismiss a request for hearing * * * if: * * * (C) The requesting party fails to appear at the time of the hearing; * * * (c) A dismissal by the administrative law judge * * * is final unless the party whose request for hearing has been dismissed files, within 20 days after the dismissal notice was mailed to the party's last-known address, an application for review * * *. (5)(a) Following issuance of a written decision by an administrative law judge, any party may file a request to reopen the hearing. The party making the request must file the request with the Office of Administrative Hearings and simultaneously provide a copy to the Employment Department. * * * (c) The administrative law judge may reopen the hearing if: (A) The party that is requesting the reopening failed to appear at the hearing; (B) The party files the request within 20 days after the issuance of the written decision by the administrative law judge; and (C) The party shows good cause for failing to appear.

OAR 471-040-0040 Reopening of a Hearing (1) * * * [a]n administrative law judge may reopen the hearing if the party: (a) Requesting the reopening failed to appear at the hearing; (b) Files in writing, within 20 days of the date of mailing of the hearing decision, a request to reopen; and (c) Has good cause for failing to appear at the hearing. (2) "Good cause" exists when an action, delay, or failure to act arises from an excusable mistake or from factors beyond an applicant's reasonable control. * * * (3) The party requesting reopening shall set forth the reason(s) for missing the hearing in a written statement, which the Office of Administrative Hearings (OAH) shall consider in determining whether good cause exists * * *.

OAR 471-041-0060 Application for Review (1) An application for review may be filed on forms provided * * * Use of the form is not required, provided the applicant requests review of a specific ALJ Order, or otherwise expresses intent to appeal * * *. (2) An application * * * may be filed in person, or by mail, fax, or electronic means to EAB, or any office of the Employment Department, including OAH * * * (3) An application * * * that does not conform to the requirements of this rule is subject to dismissal. (4) Except as otherwise stated in this rule, EAB will treat an application * * * by a claimant or employer that failed to appear at a hearing as a request to reopen the hearing * * * (5) An application * * * filed by a claimant or employer that failed to appear at the hearing and whose request for hearing was not dismissed for failure to appear will be treated as an application for review if: (a) The applicant expresses in the application * * * that they are not requesting to reopen the hearing, or (b) the application * * * does not include a written statement that sets forth the reason(s) for missing the hearing as required under OAR 471-040-0040(3).

OAR 471-041-0065 Filing Dates (1)(b) If mailed, the filing date is * * * the postmark * * * (d) If faxed, the filing date is the encoded date * * * (e) If filed by electronic means, the filing date is the encoded date * * *. (2) Where the information * * * in section (1) of this rule is missing, unclear, or improbable, the filing date is the date that EAB determines to be the most probable date of filing.

OAR 471-041-0070 Late Application for Review (1) * * * EAB shall dismiss a late application for review unless the filing period is extended in accordance with this rule * * * (2) * * * The filing period may be extended a reasonable time upon a showing of good cause. (a) "Good cause" exists when the applicant provides satisfactory evidence that factors or circumstances beyond the applicant's reasonable control prevented a timely filing. (b) "A reasonable time" is seven days after the circumstances that prevented a timely filing ceased to exist. (3) EAB shall dismiss a late application for review unless the applicant includes with the late application * * * a written statement describing the circumstances that prevented a timely filing.

OAR 471-041-0080 Written Argument (1) Parties may submit written argument within 20 days of the date that EAB mails or emails the notice required by OAR 471-041-0075. (2) A party's written argument will not be considered unless it: (a) Includes a statement that a copy has been provided to the other party * * * (b) Is received within the time allowed. * * * (4) Any party may request that the time period allowed for submitting written arguments under section (1) be extended. (a) EAB may grant an extension of time * * * if (A) The request is in writing; (B) * * * promptly made; (c) made prior to issuance of the EAB decision; (D) the party has good cause * * *; and (E) The total period allowed * * * including all extensions * * * will not exceed 35 days from the application for review filing date. * * *

The complete **Laws and Rules** may be found at: <https://unemployment.oregon.gov/laws-and-rules>

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.