

# Office Of Administrative Hearings Rights Of Review Of A Hearing Decision

**I missed the hearing, no hearing was held and my appeal was dismissed.**

## **What can I do?**

You can ask that the hearing be reopened to tell your side. See ORS 657.270 (reverse side). The request must be in writing and submitted to the Office of Administrative Hearings at the address listed below. **You must include a statement explaining why you failed to appear or your request will be dismissed. Unless your statement shows that circumstances beyond your reasonable control prevented you from appearing at the hearing, your request will be denied.**

## **How do I file an Application for Review?**

An application for review may be filed in person, by mail or by fax to the Employment Appeals Board, or to any office of the Employment Department.

An Application for Review must specify:

- a) The hearing decision's case number
- b) The hearing decision's mailing date (upper right hand corner)
- c) The applicant's or representative's name
- d) The applicant's or representative's postal or email address
- e) The claimant's name

## **What is the deadline for an "Application for Review"?**

You must file your application for review within 20 days from the hearing decision's "Decision Mailed" date (upper right hand corner). The application for review must be postmarked, faxed, or delivered by 5:00 PM on the "Decision Final" date (below "Decision Mailed"). See OAR 471-041-0065 and OAR 471-041-0070 (reverse side).

## **Questions?**

About a reopen request: call the Office of Administrative Hearings.

About an Application for Review: call the Employment Appeals Board.

### **THE RULES ABOUT APPEALS AND REOPENINGS ARE ON THE REVERSE SIDE**

The Employment Department is an equal opportunity program and does not discriminate in employment or the provision of public services on the basis of race, color, religion, sex, national origin, citizenship status, age, disability, political affiliation or belief. The following services are available free of cost, upon request: Auxiliary aids or services, alternate formats, such as Braille, large print, audio CD or tape, oral presentation, and electronic format to individuals with disabilities, and language assistance to individuals with limited English proficiency.

#### **EMPLOYMENT APPEALS BOARD**

875 Union Street NE  
Salem, OR 97311  
Phone: (503) 378-2077  
1-800-734-6949  
Fax: (503) 378-2129  
TDD: 711  
[www.oregon.gov/EMPLOY/EAB/](http://www.oregon.gov/EMPLOY/EAB/)

#### **OFFICE OF ADMINISTRATIVE HEARINGS**

PO Box 14020  
Salem, OR 97309-4020  
Phone: (503) 947-1515  
1-800-311-3394  
Fax: (503) 947-1531  
TDD: 711



## Excerpts from Administrative Rules Governing Review of a Hearing Decision

The complete **Laws and Rules** may be found at: [www.oregon.gov/EMPLOY/LEG/](http://www.oregon.gov/EMPLOY/LEG/)

### RULES

#### **ORS 657.270 Hearing; application for review; dismissal of request for hearing. \*\*\***

- (6) (a) The administrative law judge may dismiss a request for hearing under subsection (1) of this section when: \*\*\* (C) The requesting party fails to appear at the time of the hearing;
- (b) A dismissal by the administrative law judge under this subsection 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 as provided under this chapter.
- (c) Notwithstanding paragraph (b) of this subsection, a requesting party whose request has been dismissed because that party failed to appear as provided in paragraph (a)(C) of this subsection may file a request to reopen the hearing.

#### **OAR 471-041-0060 Application for Review**

- (1) An application for review may be filed on forms provided by OAH or the Employment Department and other similar offices in other states. Use of the form is not required, provided the party requests review of a specific hearing decision, or otherwise expresses intent to appeal a specific hearing decision.
- (2) An application for review may be filed in person, by mail or by fax to EAB, or any office of the Employment Department, or any Employment Security Agency in any other state or jurisdiction where a party is claiming benefits.
- (3) An application for review that does not conform to the requirements of this rule is subject to dismissal.
- (4) EAB will treat an application for review **by a party whose request for hearing was dismissed because the party failed to appear as a request for reopen the hearing under ORS 657.270(6)(c).**

#### **OAR 471-041-0065 Filing Dates**

- (1) (c) If faxed, the filing date is the receipt date stamped or written on the fax transmission by the public employee who received the document... if EAB receives a faxed document after 5:00 PM... it will be marked as received the following business day.

#### **OAR 471-041-0070**

##### **Late Application for Review**

- (1) An application for review is timely if it is filed within 20 days of the date that OAH mailed the hearing decision sought to be reviewed. 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 as provided by ORS 657.875.
- (a) "Good cause" exists when the applicant provides satisfactory evidence that factors or circumstances beyond the applicant's reasonable control prevented timely filing.
- (b) "A reasonable time" is seven days after the circumstances that prevented timely filing ceased to exist.
- (3) **The applicant shall include with the application for review 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 parties. Example: "I certify that on [date] I mailed by first class mail a copy of this document to the opposing party, addressed as follows: ABC Company, 123 Main St., Portland, OR, 9XXXX."
  - (b) Is received within the time allowed.
- (3) Written argument may be delivered in person, by mail, or by fax.
- (4) At the discretion of EAB, the time allowed for submitting written arguments under section (1) may be extended for one or more periods, not to exceed a total of 14 days.