

# Rights Of Review Of An Order

## From The Office of Administrative Hearings

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**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 (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 a statement explaining why you failed to appear or your request will be dismissed. Unless your statement shows that an excusable mistake or 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 include:

- a) The Order number
- b) The case number
- c) The Order's mailing date
- d) The applicant's or representative's name
- e) The applicant's or representative's postal and email addresses
- f) 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 date the Order was mailed. The application for review must be postmarked, faxed, or delivered by 5:00 PM Pacific Time on the deadline specified in the Order. See OAR 471-041-0065 and 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.

<b>Employment Appeals Board</b> 875 Union Street NE Salem, OR 97311 Phone: (503) 378-2077 1-800-734-6949 Fax: (503) 378-2129 TDD: 711 <a href="http://www.Oregon.gov/Employ/eab">www.Oregon.gov/Employ/eab</a>	<b>Office of Administrative Hearings</b> PO Box 14020 Salem, OR 97309-4020 Phone: (503) 947-1515 1-800-311-3394 Fax: (503) 947-1531 TDD: 711 <a href="http://www.oregon.gov/OAH/pages/index.aspx">www.oregon.gov/OAH/pages/index.aspx</a>
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**Excerpts from Laws and Rules Governing Review of an Order From the Office of Administrative Hearings.** The complete **Laws** and **Rules** may be found at:

[www.oregon.gov/EMPLOY/Unemployment/Pages/UI-Laws-and-Rules.aspx](http://www.oregon.gov/EMPLOY/Unemployment/Pages/UI-Laws-and-Rules.aspx)

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**RULES**

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**ORS 657.270 Hearing; application for review; 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 party requests review of a specific hearing decision, or otherwise expresses intent to appeal \*\*\*.

(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 to reopen the hearing \*\*\*.

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

(1)(c) If faxed, the filing date is the receipt date \*\*\* 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 \*\*\*. (a) "Good cause" exists when \*\*\* factors or circumstances beyond the applicant's reasonable control prevented timely filing. (b) "A reasonable time" is seven days after the circumstances \*\*\* 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. \*\*\* (b) Is received within the time allowed. \*\*\* (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.

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.