

PETITION FOR REVIEW TO THE WASHINGTON SUPREME COURT

Melissa Auclair, Petitioner,

v. State of Washington, Employment Security Department,

Respondent.

Court of Appeals No. 86507-2-I

**FILED
Court of Appeals
Division I
State of Washington
6/23/2025 3:31 PM**

Case #: 1043244

**FILED
SUPREME COURT
STATE OF WASHINGTON
6/26/2025
BY SARAH R. PENDLETON
CLERK**

1. IDENTITY OF PETITIONER

Melissa Auclaire, the appellant below, petitions for review of the Court of Appeals' opinion filed April 21, 2025, and order denying reconsideration filed May 22, 2025.

2. COURT OF APPEALS DECISION

The Court of Appeals affirmed the Employment Security Department's denial of unemployment benefits on April 21, 2025, and denied petitioner's motion for reconsideration on May 22, 2025 (attached as Appendices A and B).

3. ISSUES PRESENTED

- a.** Did the Court of Appeals err in overlooking the due process violation caused by the lost September 7, 2022, hearing record, preventing meaningful judicial review under RCW 34.05.461(9) and *Goldberg v. Kelly*, 397 U.S. 254 (1970)?
- b.** Did the Court of Appeals err in upholding the denial of benefits despite inadequate notice for the January 23, 2023, hearing, violating due process under *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306 (1950), and *Ortiz-Santiago v. Barr*, 924 F.3d 956 (7th Cir. 2019)?
- c.** Did the Court of Appeals misapply *Estate of Lint v. Bowers*, 135 Wn.2d 518 (1998), and *In re Mellroth*, Comm'r Dec.2d 591 (1980), by failing to credit petitioner's testimony rebutting the presumption of notice receipt?
- d.** Did the Court of Appeals err in affirming the OAH's arbitrary "no good cause" finding for non-appearance, which lacked substantial evidence under RCW 34.05.570(3)(e)?

4. STATEMENT OF THE CASE

The Employment Security Department (ESD) denied petitioner unemployment benefits. At the initial September 7, 2022, OAH hearing, petitioner testified about her resignation due to her mother's death, but the hearing record was lost (OAH Finding 6), preventing review. The Commissioner ordered a de novo hearing on January 23, 2023, but petitioner received inadequate notice—a mailed notice she testified she never received and a 24-hour text reminder seen post-hearing (OAH Findings 14, 10). The OAH found no good cause for her non-appearance, dismissing her testimony as unreliable (OAH Finding 19) despite speculative findings (OAH Findings 15, 20). The Commissioner and Superior Court affirmed, as did the Court of Appeals on April 21, 2025, overlooking due process violations and affirming the OAH's unsupported conclusions. Petitioner's motion for reconsideration was denied on May 22, 2025.

5. REASONS FOR REVIEW

The Court of Appeals' decision raises significant constitutional questions under *RAP 13.4(b)(2)* by overlooking due process violations from the lost September 7, 2022, hearing record (*Goldberg v. Kelly*, 397 U.S. at 267-68) and inadequate notice for the January 23, 2023, hearing (*Mullane*, 339 U.S. at 314; *City of Redmond v. Arroyo-Murillo*, 149 Wn.2d 607 (2003)). It conflicts with *Estate of Lint v. Bowers* and *In re Mellroth* by failing to credit petitioner's sworn testimony rebutting notice receipt, and with *Farrow v. Department of Labor & Industries*, 179 Wn. App. 653 (2014), for lacking delivery proof (*RAP 13.4(b)(1)*). The arbitrary "no good cause" finding lacks substantial evidence,

violating RCW 34.05.570(3)(e) (*RAP 13.4(b)(3)*). These errors affect thousands of unemployment claimants, presenting an issue of substantial public interest (*RAP 13.4(b)(4)*).

6. CONCLUSION

Petitioner respectfully requests that the Supreme Court grant review to correct these errors and remand for a new hearing with proper notice.

Melissa Auclair

Dated: June 23, 2025

Melissa Auclair, Pro Se

1503 Bishop Rd SW #311, Tumwater, WA 98512

melissa@melissa.pink

206-579-1470

MELISSA AUCLAIRE - FILING PRO SE

July 03, 2025 - 1:52 PM

Filing Petition for Review

Transmittal Information

Filed with Court: Supreme Court
Appellate Court Case Number: Case Initiation
Appellate Court Case Title: Melissa Auclaire, Appellant v. Wa State Employment Security Dept., Respondent (865072)

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Comments:

This is an updated Petition for Review to my previous petition, which was filed timely. It contains my signature, as well as an attached GR 34.0100 fee waiver cover sheet.

Sender Name: Melissa Auclaire - Email: melissa@melissa.pink
Address:
1503 Bishop Rd SW
#311
Tumwater, WA, 98512
Phone: (206) 579-1470

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Appendix A - COURT OF APPEALS DIVISION 1 UNPUBLISHED OPINION **04/21/2025**

Appendix B - ORDER GRANTING LEAVE TO WITHDRAW AND SUBSTITUTE
MOTION FOR RECONSIDERATION AND DENYING MOTION FOR
RECONSIDERATION **5/22/2025**

Appendix C - OAH INITIAL ORDER ON REMAND **8/6/2022**

MELISSA AUCLAIRE - FILING PRO SE

June 23, 2025 - 3:31 PM

Transmittal Information

Filed with Court: Court of Appeals Division I
Appellate Court Case Number: 86507-2
Appellate Court Case Title: Melissa Auclaire, Appellant v. Wa State Employment Security Dept., Respondent
Superior Court Case Number: 23-2-02073-9

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IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

MELISSA AUCLAIRE,

Appellant,

v.

STATE OF WASHINGTON,
EMPLOYMENT SECURITY
DEPARTMENT,

Respondent.

No. 86507-2-I

DIVISION ONE

UNPUBLISHED OPINION

BOWMAN, A.C.J. — Melissa Auclair appeals from the denial of unemployment benefits following her failure to appear at an administrative hearing. Auclair contends that the administrative law judge (ALJ) erred by determining that she did not show good cause to miss the hearing. We disagree, and affirm.

FACTS

Auclair quit her job with Chegg Inc. in August 2021. She then applied for unemployment benefits with the Employment Security Department (Department), asserting she quit with good cause because Chegg reduced her hours. In November, the Department denied her application, and Auclair appealed. The Office of Administrative Hearings (OAH) set a telephonic hearing for September 7, 2022. Following the September 7 hearing, which both Auclair and Chegg attended, the ALJ determined that Auclair had voluntarily quit her job without statutory good cause, so she was not entitled to unemployment benefits.

Auclair appealed the decision to the Department's commissioner. But the commissioner's office could not find the audio recording of the September hearing,

so the Department remanded for the OAH to conduct a new one. The OAH then scheduled a telephonic hearing for January 23, 2023, and sent notice of the hearing to Auclaire via regular mail on January 5, 2023. It also sent her a text message reminder of the hearing date and time on January 22. Auclaire failed to appear at the hearing.

Because Auclaire failed to appear, on January 24, 2023, the ALJ entered an order affirming the Department's denial of unemployment benefits. Auclaire again appealed to the commissioner.¹ The Department determined that Auclaire's petition for review raised a question of fact as to whether she had good cause to miss the January 23 hearing. So, it remanded for the OAH to conduct a hearing to determine only whether Auclaire had good cause for failing to appear. The OAH set a telephonic hearing for April 17, 2023.

At the April 17 hearing, the ALJ asked Auclaire why she did not appear at the January 23 hearing. Auclaire explained:

I didn't receive any notice through postal mail I also didn't . . . receive any other notices except for a text message that I got 24 hours before the hearing started. And I didn't look at that text message until the morning of the hearing after — several hours after it was scheduled.

The ALJ then asked Auclaire if her mailing address was correct on the hearing notice's certificate of service. After confirming her address was correct, Auclaire testified that the notice "might've gotten thrown out," and that sometimes her mail gets "misplaced."

On April 21, 2023, the ALJ issued an order, determining that Auclaire had

¹ It appears that Auclaire asserted for the first time in this appeal that the "second reason" she quit her job was due to the death of her mother in July 2020.

not shown good cause for missing the January 23 hearing and affirming the Department's denial of unemployment benefits. And on June 9, 2023, the commissioner affirmed the ALJ's April 21 order on Auclaire's failure to appear² and the Department's January 24 order denying benefits.

Auclaire petitioned the superior court for judicial review of the commissioner's June 9 order, and the superior court transferred the matter to the court of appeals for direct review.

ANALYSIS

Auclaire asserts that the Department erred by finding she showed no good cause for her failure to appear at the January 23, 2023 hearing. We disagree.

The Washington Administrative Procedure Act (WAPA), chapter 34.05 RCW, governs judicial review of a final agency action. *Tapper v. Emp. Sec. Dep't*, 122 Wn.2d 397, 402, 858 P.2d 494 (1993); see RCW 34.05.570. "[T]his court sits in the same position as the superior court, applying the standards of the WAPA directly to the record before the agency." *Id.* Under WAPA, "we may grant relief from an agency order for any one of nine reasons set forth in RCW 34.05.570(3)(a)-(i)." *Am. Fed'n of Tchrs., Loc. 1950 v. Pub. Emp. Rels. Comm'n*, 18 Wn. App. 2d 914, 921, 493 P.3d 1212 (2021).

Unless we determine that a statute or agency rule is constitutionally infirm or otherwise invalid, our [W]APA review of an agency determination is limited to deciding if the decision is based on an error of law, the order is not supported by substantial evidence, or the order is arbitrary and capricious.

Campbell v. Emp. Sec. Dep't, 180 Wn.2d 566, 571, 326 P.3d 713 (2014)

² In its June 9 decision, the commissioner adopted all the ALJ's findings except for finding of fact 21, which discussed Auclaire's credibility and efforts in perfecting the record before the OAH. That finding is not at issue on appeal.

(citing RCW 34.05.570(3)). Finally, we treat unchallenged findings of fact as verities on appeal, and we do not make witness credibility determinations. *Tapper*, 122 Wn.2d at 407; *US W. Commc'ns, Inc. v. Utils. & Transp. Comm'n*, 134 Wn.2d 48, 62, 949 P.2d 1321(1997). As the party challenging the agency action, Auclaire bears the burden of showing the invalidity of the agency's decision. RCW 34.05.570(1)(a).

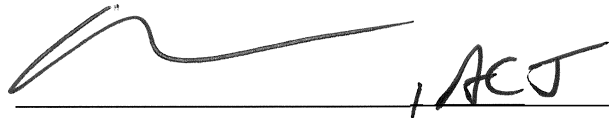
Auclaire first argues that the Department disregarded her hospitalization for COVID-19 as evidence of good cause. But Auclaire had a chance to testify about her reasons for not appearing at the January 23, 2023 hearing, and she did not mention COVID-19 or hospitalization. Instead, consistent with Auclaire's testimony, the ALJ found that Auclaire "sometimes misplaces mail delivered to her," and she "also sometimes throws out mail without opening it or looking at it carefully to determine what it is." The ALJ also found, consistent with Auclaire's testimony, that the OAH sent Auclaire a text message 24 hours before the hearing, reminding her of the hearing date and time, but that Auclaire "did not immediately read it." The Department adopted both findings, and Auclaire does not assign error to either one. These unchallenged findings support the Department's conclusion that Auclaire did not have good cause for failing to appear at the January 23, 2023 hearing.

Auclaire also cites to a typographical error in the ALJ's January 24, 2023 order on good cause to suggest that the "incorrect dating of the notice of hearing invalidates the subsequent proceedings." She points to the ALJ's finding stating that on "January 25, 2034," the OAH issued a notice of hearing for January 23,

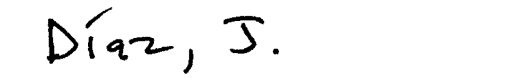
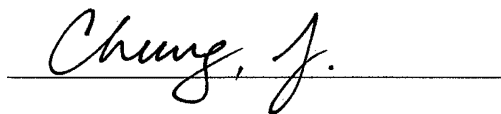
2023.³ But, as the ALJ told Auclaire during the April 17 hearing to show good cause for her failure to appear, the ALJ issued the order *after* Auclaire failed to appear, so any typos in the January 24 order are irrelevant to whether Auclaire had good cause for missing the hearing.

Finally, Auclaire asserts that the ALJ erred during the September 7, 2022 hearing by ignoring evidence of her mother's death as "a critical factor in her decision to resign from her job." But the Department vacated the ALJ's 2022 decision and ordered the OAH to conduct another hearing.⁴ Had Auclaire appeared at the hearing, she would have been able to raise this argument.

We affirm the commissioner's June 9, 2023 order affirming the ALJ's order on Auclaire's failure to appear and the Department's order denying Auclaire unemployment benefits.

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WE CONCUR:

A handwritten signature in black ink, "Díaz, J.", written over a horizontal line.A handwritten signature in black ink, "Chung, J.", written over a horizontal line.

³ The certificate of mailing shows that OAH mailed the notice of hearing to the parties on January 5, 2023.

⁴ We also note that it appears Auclaire did not make this argument in her initial request for benefits, so it was not before the ALJ during the September 7 hearing. She raised it for the first time in her appeal to the commissioner.

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION ONE

MELISSA AUCLAIRE,

Appellant,

v.

STATE OF WASHINGTON,
EMPLOYMENT SECURITY
DEPARTMENT,

Respondent.

No. 86507-2-I

ORDER GRANTING LEAVE
TO WITHDRAW AND
SUBSTITUTE MOTION FOR
RECONSIDERATION AND
DENYING MOTION FOR
RECONSIDERATION

On May 12, 2025, appellant Melissa Auclaire filed a motion for reconsideration of the opinion filed on April 21, 2025. On May 15, 2025, Auclaire filed a motion for leave to withdraw the May 12 motion for reconsideration and substitute it with a new motion for reconsideration. A majority of the panel has determined that the motions should be granted and denied in part. Now, therefore, it is hereby

ORDERED that the motion for leave to withdraw and substitute the May 12 motion for reconsideration is granted; it is hereby further

ORDERED that the substitute motion for reconsideration is denied.

FOR THE COURT:

A handwritten signature in black ink, appearing to be "ACJ", is written over a horizontal line.

Judge

**WASHINGTON STATE
OFFICE OF ADMINISTRATIVE HEARINGS**

In the matter of:

MELISSA AUCLAIRE,

Claimant.

Docket No. 232233

INITIAL ORDER ON REMAND

Agency: Employment Security Department
Program: Unemployment Insurance
Agency No. 64274643

BYE: 8/6/2022

CID: R7PJLC

UIO: Intrastate

IMPORTANT NOTICE: This order covers only the determination letter that was appealed and discussed at hearing. Sometimes there are multiple determination letters that could affect payment of benefits. If you want to appeal other determination letters, you must file a separate appeal with the Employment Security Department for each letter.

ORDER SUMMARY

This is a simple summary. Please read the entire decision to fully understand the result. The right to appeal this order is explained near the end.

- The Determination of the Employment Security Department is **AFFIRMED**.

Hearing: This case was heard by Administrative Law Judge Onika Grace on April 17, 2023, after notice to all interested parties.

Persons Present: MELISSA AUCLAIRE, Claimant.

Exhibits: The Administrative Law Judge admitted Exhibits 1 through 165.

The purpose of the hearing was to determine:

- Whether the claimant/employer had good cause for failing to appear at a previously scheduled hearing.
- Whether the claimant was able to, available for, and actively seeking work in accordance with the standards of RCW 50.20.010(1)(c), WAC 192-170-010, WAC 192-170-050 and WAC 192-180-010.
- Whether the claimant voluntarily quit with good cause due to a 25% or more reduction in the claimant's usual work hours under RCW 50.20.050(2)(b)(vi),

voluntarily quit without good cause under RCW 50.20.050, was discharged for misconduct as defined in RCW 50.04.294, or became unemployed due to a lack of work.

After considering all of the evidence, the Administrative Law Judge enters the following Findings of Fact, Conclusions of Law, and Initial Order on Remand.

FINDINGS OF FACT:

1. On November 20, 2021, the Employment Security Department (the Department) issued a written Determination Letter that denied the Claimant unemployment benefits beginning August 1, 2021, on the basis that the Claimant quit her job without good cause. The Claimant is the appellant in this matter and filed an appeal on November 24, 2021.
2. The Claimant was aware of and had access to the Office of Administrative Hearings participant portal where hearing notices, exhibits, and other hearings materials are available for review.
3. On August 12, 2022, the Office of Administrative Hearings issued a Notice of Hearing setting this matter for a telephonic hearing on September 7, 2022, at 11:00 AM Pacific Time. This Notice was mailed to the parties at their addresses of record.
4. The Claimant and Employer appeared. Following that scheduled hearing, the assigned Administrative Law Judge issued an Initial Order dated September 8, 2022. This Order advised the parties of their right to appeal and that any Petition for Review must be filed with the Commissioner's Review Office of the Employment Security Department by October 11, 2022.
5. On October 11, 2022, the Claimant (petitioner) filed a Petition for Review.
6. On October 28, 2022, the Commissioner's Review Office issued an Order Remanding Cause for Hearing and Decision De Novo because there was no audio available from the September 7, 2022 hearing. This Order sent the case back to the Office of Administrative Hearings for a new hearing. This October 28, 2022 Order also stated, in relevant part, that "This order calls for the scheduling of an additional hearing in the above-titled matter for the purposes set forth therein. You will be notified of the time and place where this matter is set for hearing." Exhibits 126-127.
7. The Claimant sometimes misplaces mail delivered to her. The Claimant also sometimes throws out mail without opening it or looking at it carefully to determine what it is.
8. After receiving the Commissioner's Review Office October 28, 2022 Order Remanding Cause for Hearing and Decision De Novo, the Claimant was not

checking the Office of Administrative Hearings participant portal for scheduling information about the new hearing.

9. On January 5, 2023, the Office of Administrative Hearings issued a Notice of Hearing on Remand setting this matter for a telephonic hearing on January 23, 2023, at 2:15 PM Pacific Time. This Notice was mailed to the parties at their addresses of record.
10. 24 hours before the scheduled January 23, 2023 hearing on remand, the Office of Administrative Hearings sent the Claimant a text message reminding her of the scheduled January 23, 2023 hearing on remand. The Claimant timely received this text message but did not immediately read it.
11. The Claimant failed to appear for the scheduled hearing on January 23, 2023. The Employer appeared. Following that scheduled hearing, the assigned Administrative Law Judge issued an Initial Order After Remand dated January 24, 2023, affirming the November 20, 2021 Determination Letter. This Order advised the parties of their right to appeal and that any Petition for Review must be filed with the Commissioner's Review Office of the Employment Security Department by February 23, 2023.
12. On January 30, 2023, the Claimant (petitioner) filed a Petition for Review with the Commissioner's Review Office.
13. On February 17, 2023, the Commissioner's Review Office issued an Order Remanding Cause for Hearing and Decision. The Commissioner's Review Office remanded the matter to provide the petitioner with an opportunity to show good cause for their failure to appear at the January 23, 2023 hearing on remand.
14. The Claimant argues that she failed to appear for the scheduled January 23, 2023 hearing on remand because she was not aware of the scheduled hearing before the time of the hearing.
15. It is possible that the Notice of Hearing for the January 23, 2023 hearing was timely delivered to her mailing address before the scheduled hearing but that she threw it out by mistake. It is also possible that the Notice of Hearing for the January 23, 2023 hearing was timely delivered to her mailing address before the scheduled hearing but that it was misplaced in her home.

Considerations in Making Findings of Fact

16. In entering findings of fact, the undersigned need not be persuaded beyond a reasonable doubt as to the true state of affairs, nor must the persuasive evidence be clear, cogent, and convincing. The trier of fact need only determine what most likely happened. *In re Murphy*, Empl. Sec. Comm'r Dec.2d 750 (1984). This standard of what most likely happened is often referred to as "a preponderance of the evidence."

17. Prehearing statements, because they have been made at a time closer to the period of time in issue and before a party is aware of the effect they may have on a claim's adjudication, are entitled to great weight. See e.g., *Huguenin V. Employment Security Dep't*, 32 Wn. App. 658, 648 P.2d 890 (1982). Prehearing statement may be accorded greater weight than those made at hearing. *In re Paine*, Empl. Sec. Comm'r Dec. 2d 184 (1976).
18. The Employer, CHEGG INC, was provided due notice of the time, date, and place of the hearings but failed to appear. Consequently, the findings in this case are based primarily upon evidence presented by or on behalf of the Claimant.
19. The undersigned has some concerns about the reliability of the Claimant as a source of factually accurate information. The Claimant had difficulty providing clear and consistent testimony, and some of her testimony was internally and/or logically inconsistent. Some of the Claimant's testimony was also inconsistent and/or logically inconsistent with documents in the record for this hearing, including the orders issued by Commissioner's Review Office.
20. The Claimant testified that it is possible that the Notice of Hearing for the January 23, 2023 hearing was timely delivered to her mailing address before the scheduled hearing but that she threw it out by mistake. The Claimant also testified that it is possible that the Notice of Hearing for the January 23, 2023 hearing was timely delivered to her mailing address before the scheduled hearing but that it was misplaced in her home.
21. Throughout the hearing, the undersigned made efforts to try to try to make sure that the record contained accurate information about the issues before her. She also made efforts to resolve inconsistencies and/or conflicts in the record for this hearing. The nervousness of the Claimant and unfamiliarity with the hearing process are considered when making determinations about credibility.
22. The findings of fact in this matter are what the undersigned finds more likely than not to have happened, based on the best information available in the record and the considerations cited above.

CONCLUSIONS OF LAW:

1. The Office of Administrative Hearings has jurisdiction to hear and decide this appeal under RCW Chapters 50.32 and 34.05.
2. In cases where an interested party aggrieved by the entry of an order has petitioned for review of such order, the matter may be remanded for a hearing and decision on whether the aggrieved party should be allowed another opportunity to be heard on the merits. RCW 50.32.040. The order shall be set aside if the aggrieved party shows good cause for failing to appear or to request a postponement prior to the scheduled time for hearing. WAC 192-04-070, WAC

192-04-180, *Graves v. Employment Sec. Dep't*, 144 Wn. App. 302, 182 P.3d 1004 (2008).

3. Good cause for failing to appear at a hearing is a situation that would effectively prevent a reasonably prudent person from appearing. A reasonably prudent person is an individual who uses good judgment or common sense in handling practical matters. The actions of a person exercising common sense in a similar situation are the guide in determining whether an individual's actions were reasonable. WAC 192-100-010. Although there is not a specific definition of "good cause," there are numerous Commissioner Decisions setting forth various scenarios that do not constitute good cause. See *In re Tracy*, Empl. Sec. Comm'r Dec.2d 804 (1989), *In re Gillick*, Empl. Sec. Comm'r Dec. 808 (1969); see also *Graves v. Employment Sec. Dep't*, 144 Wn. App. 302, 182 P.3d 1004 (2008). **Most of these decisions have one thing in common - the circumstances were within the person's control at the time of the non-appearance.**
4. **A claimant's lack of understanding of the Unemployment Insurance program has been found not to establish good cause.** *In re Thomas*, Empl. Sec. Comm'r Dec.2d 818 (1990).
5. **Failure to read an entire document, such as a Notice of Hearing or an order is not an excusable reason for purposes of establishing good cause.** See, e.g., *In re Blankenship*, Empl. Sec. Comm'r Dec. 2d 935 (2010).
6. **Negligence in handling mail does not constitute good cause.** *In re Groves*, Empl. Sec. Comm'r Dec.2d 374 (1978). **Negligence on the part of a claimant or their agent does not constitute good cause.** *In re Matkins*, Empl. Sec. Comm'r Dec.2d 146 (1976).
7. **There is no good cause based on a party's mistake or oversight.** *In re Roberts*, Empl. Sec. Comm'r Dec. 137 (1954). **In the context of a claimant, it was ruled that carelessness and forgetfulness do not constitute good cause.** *In re Renz*, Empl. Sec. Comm'r Dec.2d 498 (1979).
8. Here, the Claimant has not established by a preponderance of the evidence that she was prevented from appearing for the January 23, 2023 hearing on remand by a situation that would effectively prevent a reasonably prudent person from appearing. Although the Claimant argues that she failed to appear for the scheduled January 23, 2023 hearing on remand because she was not aware of the scheduled hearing before the time of the hearing, the Claimant was notified of the scheduled January 23, 2023 hearing on remand by a notice sent through the mail to the Claimant's address of record.
9. **When a notice is properly addressed and mailed, a presumption arises that it was received.** *In re Mellroth*, Empl. Sec. Comm'r Dec.2d 591 (1980). **A party may overcome this presumption with evidence that the notice was never**

actually received, but a mere denial of receipt may not suffice. *Id.*

Testimony that a person does not remember a Notice of Hearing being received is not sufficient evidence to overcome the presumption that the Notice of Hearing was received.

10. The Claimant sometimes misplaces mail delivered to her. The Claimant also sometimes throws out mail without opening it or looking at it carefully to determine what it is. It is possible that the Notice of Hearing for the January 23, 2023 hearing was timely delivered to her mailing address before the scheduled hearing but that she threw it out by mistake. It is also possible that the Notice of Hearing for the January 23, 2023 hearing was timely delivered to her mailing address before the scheduled hearing but that it was misplaced in her home. As cited above, negligence in handling mail does not constitute good cause, and failure to read an entire document, such as a Notice of Hearing or an order is not an excusable reason for purposes of establishing good cause.
11. The Claimant was also notified of the scheduled January 23, 2023 hearing on remand by a text message she received 24 hours before the scheduled hearing.
12. Further, while not dispositive, the undersigned also notes that the October 28, 2022 Order Remanding Cause for Hearing and Decision De Novo notified the Claimant that the case had been sent back to the Office of Administrative Hearings for a new hearing and that an additional hearing would be scheduled. However, although the Claimant was aware of and had access to the Office of Administrative Hearings participant portal where hearing notices, exhibits, and other hearings materials are available for review, the Claimant was not checking the Office of Administrative Hearings participant portal for scheduling information about this new hearing.
13. Because the Claimant (petitioner) has not established by a preponderance of the evidence that she was prevented from appearing for the January 23, 2023 hearing on remand by a situation that would effectively prevent a reasonably prudent person from appearing, the petitioner has not established good cause for failing to appear at the January 23, 2023 hearing on remand.
14. Accordingly, the Initial Order After Remand dated January 24, 2023, should be **AFFIRMED**.

Now, therefore, it is **ORDERED**:

The determination of the Employment Security Department under appeal is **AFFIRMED**.

The petitioner has failed to establish good cause for failing to appear at the January 23, 2023 hearing. The Initial Order After Remand issued on January 24, 2023, is **AFFIRMED**.

///

Dated and mailed April 21, 2023, from Spokane Valley, Washington.



Onika Grace
Administrative Law Judge
Office of Administrative Hearings

Certificate of Service

I certify that I mailed a copy of this order to each party at the address listed below, postage prepaid, on the date stated above.



Mellisa M. Aman
Representative
Office of Administrative Hearings
16201 E. Indiana Avenue, Suite 5600
Spokane Valley, WA 99216

MELISSA AUCLAIRE
1210 REPUBLICAN ST APT 407
SEATTLE, WA 98109

Claimant

CHEGG INC
3990 FREEDOM CIR
SANTA CLARA, CA 95054-1204

Employer

YOU HAVE THE RIGHT TO APPEAL

This decision becomes final unless a Petition for Review is filed with the Commissioner's Review Office of the Employment Security Department ("Department"). If you disagree with the Administrative Law Judge's order, you may file a Petition for Review stating the reasons why you disagree. Include the docket number(s) on your Petition for Review. If you submit your Petition for Review late, explain why it is being filed late. Do not write more than five (5) pages. **If you failed to attend the hearing, please tell us the reason why.**

You may use the form on the following page to file your Petition for Review in writing. You must submit your Petition for Review by mailing it to:

**Commissioner's Review Office
Employment Security Department
P.O. Box 9555
Olympia, WA 98507-9555**

Alternatively, you may e-file your Petition for Review by using the Department's eServices online. You must first create an eServices account by visiting the Department's website at <https://secure.esd.wa.gov>. If you file your Petition using the Department's eServices online, your submission is limited to the equivalent of five typewritten pages.

Your Petition for Review must be postmarked or e-filed on or before **May 22, 2023**.

Do not file your Petition for Review by facsimile (fax).

PETITION FOR REVIEW OF INITIAL DECISION (APPEAL)

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| NAME(S) (PLEASE PRINT) | 232233 DOCKET NUMBER | ADDITIONAL DOCKET NUMBER(S) |
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Do not file your Petition for Review by facsimile (fax) or email. Please use the space below to state why you disagree with the Administrative Law Judge's order. If you failed to attend the hearing, please tell us the reason why. You may attach up to four additional pages.

Signature _____

_____ Date

Mail your Petition for Review to:

**Commissioner's Review Office
Employment Security Department
P.O. Box 9555
Olympia, Washington 98507-9555**

MELISSA AUCLAIRE - FILING PRO SE

June 23, 2025 - 3:31 PM

Transmittal Information

Filed with Court: Court of Appeals Division I
Appellate Court Case Number: 86507-2
Appellate Court Case Title: Melissa Auclaire, Appellant v. Wa State Employment Security Dept., Respondent
Superior Court Case Number: 23-2-02073-9

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