UCP-18 REV 01-12

pennsylvania
DEPARTMENT OF LABOR & INDUSTRY

OFFICE OF UNEMPLOYMENT COMPENSATION BENEFITS

UNEMPLOYMENT COMPENSATION APPEALS INFORMATION

This pamphlet was prepared to help you understand the appeal process. It is designed for informational purposes only and should not be considered a statement of the Law.

GENERAL INFORMATION

This pamphlet gives claimants and employers important information about filing an unemployment compensation appeal. The pamphlet also contains important information for claimants concerning the need to continue to file biweekly claims while awaiting a decision. If you are a claimant, knowing the correct claims filing procedures will enable you to protect your right to benefits pending the outcome of the appeal.

Under Article V of the Pennsylvania Unemployment Compensation Law, the Department of Labor & Industry must examine promptly each application for benefits and determine whether the application is valid. In order to ensure that every individual is given an opportunity for a fair hearing, the law also provides for an appeal process to allow interested parties to object to an unemployment compensation determination or decision.

REPRESENTATION

Whether you are the claimant or the employer, you may file your own appeal to a UC referee or the UC Board of Review and represent yourself before the referee or the board, or you may have an attorney or any other advocate represent you. If you are a claimant and you qualify, free legal assistance may be available from the legal services organization serving your area, your local bar association or a law school clinic.

APPEALS TO THE UNEMPLOYMENT COMPENSATION REFEREE

When the UC Service Center (UCSC) has decided whether an employe who has filed a disputed claim will receive Unemployment Compensation (UC) benefits, it notifies both parties in the case, the employe (claimant) and the employer, of its determination.

If you disagree with the determination of the UCSC, you may appeal within 15 days from the date the ruling is mailed to you. Instructions for filing an appeal are included with the determination. If the 15th day of an appeal period falls on a day on which the UCSC is closed, the appeal period is extended to the next working day. Following a hearing, the UC referee will issue a new decision.

CLAIMS INVOLVED IN APPEAL

Claimant Appeals

If you are a claimant appealing an ineligible determination, the benefit weeks involved will be paid only if the decision is reversed. If you are eligible for benefits but appealing for a higher weekly benefit rate, the benefit weeks will be paid at the current rate. If the appeal is decided in your favor, you will be issued supplemental benefits for the difference between the two rates.

Continued Filing of Claims - *IMPORTANT*

If you are a claimant who is still totally or partially unemployed, *continue to file your claims for benefits.* If you have an application for benefits (AB) date that is effective on or after January 1, 2012, you must also be registered for employment search services with Pennsylvania CareerLink® system within 30 days after you have filed your application for UC benefits and continue to conduct your active work searches during each week that you seek benefits. If you appeal a determination or a decision denying benefits and the appeal is decided in your favor, only benefits for weeks that you claimed while the appeal was pending can be paid. However, failure to register with a CareerLink® timely or seek work as instructed during each week of benefits claimed may result in your being deter-

mined ineligible for benefits for that week(s). You must continue to file your biweekly claims as instructed by the UCSC. The fact that your case is under appeal does not change your responsibility to continue to file your biweekly claims for benefits.

Employer Appeals

If you are a claimant and your employer is appealing a determination that made you eligible for benefits, you will continue to be paid your benefits while the appeal is in progress. If the eligible determination is reversed, you will be expected to repay the money you received if it is determined that you were overpaid benefits through your own fault. Interest is assessed on the overpayment principal until it is repaid.

If the overpayment is determined to be a non-fault recoupable, the total of the overpaid benefits will be deducted from any future benefits you receive.

Periodic letters are sent to claimants having non-fault overpayments to remind them of the offset from future benefits and to provide them with the opportunity to make voluntary repayment. If it is determined to be a non-fault, nonrecoupable overpayment, the overpayment will not be deducted from your future benefits.

THE UC REFEREE

Your appeal will be assigned a number and forwarded to a UC referee (referee). The referee is a person knowledgeable in UC matters who will take sworn testimony regarding the issue(s) pertinent to your claim for benefits.

The referee will send you a Notice of Hearing (Notice). This Notice will give you, and the other interested parties involved, the time and place of the hearing and the issues and parties involved. A list and explanation of UC eligibility issues will be included with the Notice.

When referring to the claim appeal, use the assigned appeal number and the claimant's name and social security number.

Withdrawal of Appeal

You may ask to have your appeal withdrawn any time before a decision is issued by the referee. If you wish to withdraw your appeal, you must submit a written request for withdrawal to the referee's office responsible for the hearing.

THE HEARING BEFORE A UC REFEREE

Purpose of the Hearing

The purpose of the hearing, and the duty of the referee, is to gather all facts relating to the case. After getting all the facts on the record, the referee must then apply the appropriate laws, rules, procedures, and precedents in order to make a proper decision. The referee has no special or personal interest in the outcome of the appeal. The referee's decision will be based on the evidence and testimony provided at the hearing.

The hearing is not a "round table" discussion. You must limit your testimony and evidence to the issues before the referee. You have the right to present your testimony and evidence. Please refer to "REPRESENTATION" on page 1 of this pamphlet for further information on representation at hearings.

If you feel that a conflict of interest would be created if the hearing were to be conducted by the assigned referee, you may advise the Appeals System Administrator, UC Board of Review, 651 Boas St., Room 1116, Harrisburg, PA 17121-0750, in writing, giving your reasons and requesting that another referee be assigned.

Preparing for the Hearing

Organize the facts and circumstances relating to your appeal. Gather any documents you have which concern the case, since these should be taken to the hearing.

If you need assistance because of a disability with hearing, speech, and/or vision, or for a language other than English, please contact the referee's office responsible for the hearing.

Although the hearings are informal, they do involve testifying under oath, cross-examination, rebuttals and witnesses. The testimony will be recorded.

If there are any witnesses who have firsthand knowledge of the matter, and you wish to have them testify or bring documents to the hearing, you must notify them of the date, time, and place of the hearing and arrange for them to be present. If a witness can testify only as to what he/she was told by someone else, such testimony alone cannot be used in making the decision.

If your witness refuses to appear or provide documentary evidence, you may request that the referee issue subpoenas to ensure the requested presence at the hearing. The referee will issue subpoenas if determined necessary.

Attendance at the Hearing

You should attend the hearing to protect your rights.

Request for Continuance of Hearing

If for any reason you cannot attend the hearing, a request for a continuance (postponement and rescheduling) of the hearing should be directed IMMEDIATELY to the referee named on the front of the Notice of Hearing. This will be granted only for "proper cause" and upon terms deemed proper by the referee. If a continuance of the hearing is granted, the hearing will be rescheduled.

Request for Reopening After Scheduled Hearing

Either party may request a reopening of an appeal hearing, by contacting the referee's office. A request received before the referee's decision has been issued will be reviewed by the referee. A reopening may be granted for good cause. A request received after the referee's decision has been issued will be treated as a request for further appeal to the UC Board of Review (board) from the referee's decision. Request for reopening must be made in writing and directed to the referee's office responsible for the hearing.

THE UC REFEREE'S DECISION

Following the hearing, the referee will consider the facts presented at the hearing and issue a decision based on these facts. Copies of the decision will be mailed to the interested parties.

APPEALS TO THE UC BOARD OF REVIEW

If you feel that the referee's decision is incorrect, you may file an appeal to the UC Board of Review. Instructions for filing an appeal are included with the referee's decision.

Appeals must be filed within 15 days from the date the decision was mailed. If the fifteenth day of an appeal period falls on a day on which the UCSC is closed, the appeal period is extended to the next working day.

The board members review the previously established record in connection with each request for a further appeal from the referee's decision, and will determine whether or not there is any need for an additional hearing.

If the board determines that the record established by the referee meets the board's fact-finding responsibilities, and that the parties were given ample opportunity to present their testimony and evidence at the referee hearing, then it may proceed to decide the case on the basis of that record.

If you feel that a conflict of interest would be created by any particular board member's review of the further appeal, you may advise the board, in writing, of the reasons, and request that the specified member not participate in the decision.

Copies of Referee Hearing Testimony

The record of the referee's hearing is transcribed only when a referee decision is appealed to the UC Board of Review. Copies of such testimony are available to you (to be used for UC purposes only) at no charge, upon a written request to the Appeals System Administrator, UC Board of Review, 651 Boas St., Room 1116, Harrisburg, PA 17121-0750.

Remanding a Case

The board's review of a further appeal does not include a hearing like the referee's hearing. However, if the board feels that the record is not adequate, then it will remand (return) the case to a referee for another hearing.

If you feel that existing testimony is insufficient and that new evidence should be introduced, you should submit a written request for a remand to the Appeals System Administrator, stating why you think the testimony is incomplete.

A Remand Hearing

At a remand hearing, the referee will serve as a hearing officer for the board, to gather from the parties any additional information needed in order for the board to arrive at a proper conclusion of the case. This testimony will be recorded. Then the entire file and record of evidence will be returned to the board members for their consideration and appropriate further action.

If a remand hearing is scheduled, you may request a continuance (postponement and rescheduling) of the hearing by contacting the referee's office. This may be granted for proper cause.

If you feel that the attendance of certain witnesses and/or the producing of certain documents at the remand hearing are essential to provide the board with complete information concerning the claim, you may submit a written request to the hearing officer that subpoenas be issued to produce these. The board will issue subpoenas, if necessary.

Filing a Brief - Requesting Oral Argument

If you wish to clarify or expand testimony already recorded, you should request, in writing, of the Appeals System Administrator, UC Board of Review, 651 Boas St., Room 1116, Harrisburg, PA 17121-0750, the board's permission to file a brief (a written statement) or to be scheduled for oral argument (personal appearance) before the board in Harrisburg.
The board has sole discretion to grant or deny requests for oral argument, and will grant such a request only when the board deems it necessary to enable the board to render an appropriate decision.

If an oral argument is scheduled, you may request a continuance (postponement and rescheduling) by contacting the UC Board of Review. This may be granted for proper cause.

Withdrawal of Appeal

You may ask to have your appeal withdrawn any time before a decision is issued by the UC Board of Review. If you wish to withdraw, you must send a written request to Appeals System Administrator, UC Board of Review, 651 Boas St., Room 1116, Harrisburg, PA 17121-0750. By withdrawing the appeal, you now accept the decision from which the last appeal was taken.

THE BOARD'S DECISION

After reviewing the facts, the board will issue a decision, usually within 30 to 75 days from the filing of the further appeal. Copies of the decision will be mailed to the interested parties.

RECONSIDERATION

A request for the board to reconsider a previously issued board decision must be filed within 15 days after the decision mailing date. The parties will be notified of the board's ruling on the request for reconsideration.

APPEALS TO THE COMMONWEALTH COURT

If you disagree with the UC Board of Review's decision, you have the right of appeal to the Commonwealth Court of Pennsylvania. Instructions for filing an appeal are included with the board's decision. An appeal to the Commonwealth Court must be filed within 30 days of the mailing date of the board's decision. The UC Board of Review has nothing to do with the filing or processing of further appeals to the Court. Commonwealth Court appeals may be filed in person or by mail with the Prothonotary of the Commonwealth Court of Pennsylvania, Pennsylvania Judicial Center, 601 Commonwealth Ave., Suite 2100, P.O. Box 69185, Harrisburg, PA 17106-9185.

Auxiliary aids and services are available upon request to individuals with disabilities.
Equal Opportunity Employer/Program