



WORKING FOR YOU

Unemployment Insurance Division

Hearings Before Unemployment Insurance Administrative Law Judges

This information is provided by New York State Department of Labor to answer basic questions about your upcoming hearing before an Unemployment Insurance Administrative Law Judge at the Unemployment Insurance Administrative Law Judge section.

For more information, read the pamphlet 'Questions and Answers About Your Unemployment Insurance Benefits Hearing' (form TC 424.2), which you should have received in the mail from the Department of Labor. It is also available at <http://www.labor.ny.gov/formsdocs/ui/formsandpublications.shtm>.

To protect your rights while you are unemployed you should continue to certify for benefits and to report in person as directed. Any correspondence related to your case should include both the Administrative Law Judge case number and your social security number.

Who is the Administrative Law Judge?

The Administrative Law Judge is an impartial (fair) decision-maker whose judgment is independent of the Department of Labor. The Administrative Law Judge will conduct your hearing, carefully review all the facts in your case, and then make a decision about whether you (the claimant) are entitled to Unemployment Insurance benefits.

How Can I Prepare for the Hearing?

You have the right to retain a lawyer or other representative to represent you at the hearing. A lawyer who represents a claimant may charge a fee, which is limited by law. A non-attorney who represents a claimant may not charge a fee unless the non-attorney is an agent registered with the Appeal Board. Fees are payable to claimant's representatives only if a claimant receives benefits as a result of a hearing and the Appeal Board approves the fee. If you cannot afford to hire a lawyer, you may be able to get free representation through your local Legal Aid Society or Legal Services Program. For a list of legal resources, including attorneys, registered representatives, legal services programs and pro bono attorneys' organizations, go to the Unemployment Insurance Appeal Board website at www.uiappeals.ny.gov. Select the "Helpful Information" tab and then "Guides and Resources." Choose the "List of Attorneys & Authorized Agents." You may also request this list by calling (518) 402-0205. You have the right to review your entire case file prior to the hearing.

If you have any questions, contact the Unemployment Insurance Administrative Law Judge section at (877) 880-3322 or the Department of Labor's Telephone Claims Center at (888) 209-8124.

How Will the Administrative Law Judge Conduct the Hearing?

During the hearing, the Administrative Law Judge will:

- a. Identify all parties present and briefly outline the issues involved;
- b. Take testimony from all parties under oath or affirmation;
- c. Question parties and witnesses to obtain the necessary facts;
- d. Assist parties in asking questions of witnesses;
- e. Rule on which documents or testimony may be admitted into evidence;
- f. Issue subpoenas for relevant records and for persons to appear to testify; and
- g. Permit parties to use documents from the case file in presenting their case.

What Are My Rights at the Hearing?

During the hearing, you have the right to:

- a. Testify on your own behalf;
- b. Bring an attorney or other person to represent you;
- c. Have witnesses testify on your behalf;
- d. Offer documents, records and other evidence into the record;
- e. Ask the Administrative Law Judge to subpoena documents to be presented and witnesses to testify on your behalf;
- f. Ask questions of (or “cross examine”) opposing parties and adverse witnesses;
- g. Ask the Administrative Law Judge to assist you if you are having trouble asking questions;
- h. Decline to answer any question that you do not understand;
- i. Explain or refute any evidence against you;
- j. Request a delay (or “adjournment”) to a later date for a good cause; and
- k. Make a statement at the end of the hearing to explain why you are entitled to Unemployment Insurance benefits or to explain points which were not raised or clarified during the hearing.

What Happens After the Hearing?

After the hearing, the Administrative Law Judge will issue the ‘Decision and Notice of Decision’ informing you if you are entitled to Unemployment Insurance benefits. It will be mailed to you as soon possible after the hearing.

In the ‘Decision and Notice of Decision’, the Administrative Law Judge will set forth the facts found from evidence, the reasons for the findings, and the decision itself.

Information in the ‘Decision and Notice of Decision’ will also explain how to file an appeal to the Appeal Board if you disagree with the Administrative Law Judge’s decision.

If you cannot understand the Administrative Law Judge’s decision, you may call the Department of Labor’s Telephone Claim Center and request an explanation.

If the Administrative Law Judge or the Appeal Board determines that you are overpaid benefits, you may have to repay the benefits.