

**Unemployment
Insurance**

**CONTESTED
CASES**



and the

**Appeal
Process**

Unemployment insurance is a program designed to protect workers who lose their jobs through no fault of their own and who are able, available and actively looking for work.

Eligible jobless workers can receive unemployment insurance benefits for up to 26 weeks, or up to 39 weeks if they were laid off due to the business closing. However, just as workers have the right to file claims for unemployment insurance, employers have the right to protest those claims they consider invalid. When such a protest is made, it sets the adjudication process in motion. This pamphlet describes the adjudication process and explains the roles of both employer and claimant in the process. It also outlines the role of Iowa Workforce Development in resolving contested claims.

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Iowa Workforce Development Appeals Section	(515) 281-3747 (800) 562-4692
Employment Appeal Board	(515) 281-3638

For the IWD Center nearest you:
www.iowaworkforce.org/centers/files/offices.htm
or Customer Service at (800) 562-4692

*Workforce Development Centers are listed
on the back cover.*

Fact-Finding Interviews

If an employer protests a worker's unemployment insurance claim or there is some question about the claimant's eligibility, Iowa Workforce Development will arrange an informal proceeding, called a fact-finding interview, to determine the claimant's eligibility for benefits.

Normally, the fact-finding interview is conducted by telephone. A notice of the interview containing the scheduled date and time of the interview is sent to both the claimant and the employer. The notice also contains the telephone number that will be used by IWD to contact the individuals for the interview. If the telephone number is incorrect, IWD should be contacted immediately and given the correct number. If either party does not have a telephone, IWD should be notified of this fact upon receipt of the fact-finding notice.

If either the employer or the claimant is unable to participate in the fact-finding interview, IWD should be notified immediately. Upon request, IWD staff will assist the claimant or employer in submitting evidence in writing in lieu of participation.

A fact-finding interview is an informal proceeding between the claimant, the employer and the IWD representative. The representative asks questions of each party. The claimant and employer are each given an opportunity to explain their position on the issue and to present witnesses. If witnesses are unable to participate, they can write and sign statements to be presented to the IWD representative prior to the telephone interview. The employer and claimant also may question each other's witnesses and obtain copies of any documents in the file. Both claimants and employers are urged to be prepared before they participate in the fact-finding interview.

Either party may record the proceedings, but must furnish the equipment and pay any expense. Recording must not interfere with the interview process. Either party also may be represented by a lawyer, but must pay any costs for the legal representative's services.

Copies of the IWD representative's decision are mailed within a few days after the interview. The decision contains full instructions for appealing. Any appeal from this decision must be post-marked within 10 calendar days from the date of mailing shown on the representative's decision or received in the Appeals Section within 10 calendar days from the date of mailing. Additional time will be granted only if the last day for filing the appeal is a Saturday, Sunday or legal holiday.

Effective July 1, 2008, claimants who have not engaged in willful misrepresentation or fraud in fact-finding will not be required to repay benefits already paid if the employer does not participate in fact-finding but wins on appeal.

First Level of Appeal: Administrative Law Judge

When an IWD representative's decision is appealed by either the claimant or the employer, a formal public hearing is scheduled with an administrative law judge, who is a lawyer. Hearings in which IWD participates will be heard by an administrative law judge from the Department of Inspections and Appeals. Each party has the right to request a telephone hearing or an in-person hearing. In-person hearings are held at the Workforce Development Center nearest the location of both parties. If a party is in an area different from that of the other party, the party requesting an in-person hearing must travel to the location of the other party. Travel expenses will not be paid by Iowa Workforce Development. **Parties to telephone hearings must call the phone number indicated in the hearing notice prior to the hearing to provide their telephone numbers.**

Both parties are notified of the time and place of the hearing and the issues to be decided at the hearing. Since additional evidence may be submitted at the first-level appeal hearing, it is important for both participants to attend even though they may have participated in the fact-finding interview. Either party may choose to be represented by a lawyer, but at that party's own expense.

The administrative law judge examines all the evidence presented during the hearing and then makes an impartial decision. **Documents submitted for the fact-finding interview must be resubmitted so that both parties have them for the appeal hearing.** Copies of the decision are sent to both parties and are available for inspection at any IWD office. Any person or organization may request a copy of the hearing record or the decision.

Second Level of Appeal: Employment Appeal Board

Either the employer or the claimant may appeal this decision to the second level of appeal, the Employment Appeal Board. This appeal must be postmarked within 15 calendar days from the mailing date of the administrative law judge's decision.

Members of the Employment Appeal Board are appointed by the governor to equally represent labor, employers and the general public. The Board is in the Iowa Department of Inspections and Appeals, Lucas State Office Building.

Except in unusual circumstances, the Employment Appeal Board does not hold hearings. The three-member board decides each case by reviewing all of the evidence that has been presented. The board may affirm or reverse the administrative law judge's decision or remand the case back to the administrative law judge for further review or a new hearing and a second decision. Copies of the decision are sent to the claimant and employer. The Appeal Board's meetings are always open to the public.

The employer and the claimant each has the right to request a rehearing before the Appeal Board. This request must be postmarked within 20 calendar days from the mailing date of the Appeal Board's decision. If either party elects to file an application for a rehearing, copies of the application will be sent to all those involved in the case. Upon receiving the application for rehearing, if the board does elect to rehear the case, a second review of the case is conducted and a second decision is made.

The Employment Appeal Board is the final administrative appeal level within the unemployment insurance program.

Other Levels of Appeal: Judicial Review, State and Federal Court Systems

Judicial Review—After rehearing by the Appeal Board, or instead of requesting rehearing, either the employer or the claimant has the option of filing for judicial review in district court. Such an appeal or petition must be filed within 30 days after the Appeal Board decision or within 30 days after a denial or a decision is issued by the Appeal Board concerning a request for a rehearing. Petitions for judicial review are given precedence over other civil cases except cases arising under the workers' compensation law.

State and Federal Court Systems—When all levels of appeal within the unemployment insurance program have been exhausted, claimants and employers may pursue their cases through either the state court system or the federal court system if a federal question is involved. Petitioners who elect to appeal through these courts must do so at their own expense.

The Claimant's Role in the Appeal Process

The worker whose claim is disputed by an employer or whose eligibility is in question for any reason has a vital role in the appeal process. To protect his or her interests, the claimant should read all notices and decisions carefully. It is especially important to follow the directions for filing appeals so that any appeal is filed within the legal time limits.

Once a decision is made in favor of the claimant, benefits start immediately, even if the employer appeals the decision. However, if the decision awarding benefits to the claimant is later reversed on appeal, the claimant may be required to repay the benefits already received.

Even though a decision denies benefits, a claimant who appeals that decision should continue filing weekly claims for benefits. The claimant has the burden of proof on benefit eligibility issues, such as able to work, available for work, work search, and requalifications, and on voluntary quit separations.

The Employer's Role in the Appeal Process

The importance of the employer's role in the appeal process is equal to that of the claimant. The employer has the burden of proof on disqualifications involving discharges or suspensions, job refusal, labor disputes, disqualifying income, vacation pay, etc. Employers should read notices and decisions carefully and file the necessary forms and appeals within the time limits allowed.

Employers or their representatives should participate in all hearings. Employers also should be sure that anyone who was directly involved or who witnessed a specific incident or incidents that led to a claimant's separation participates in any hearings to give testimony. Hearsay testimony can be accepted as evidence, but eyewitness testimony carries more weight. Employers should be prepared to present pertinent documents, such as time cards, payroll records, etc.

Should any appeal bring a decision in favor of the employer, any unemployment insurance benefits paid to the claimant will not be charged against the employer's account. (This does not always apply in the case of reimbursable employers.)

Under the laws that govern Iowa's unemployment insurance program, employers and claimants have equal rights every step of the way. Jobless workers have the right to file claims for unemployment insurance. Employers have the right to protest those claims they consider invalid. Workers and employers each have the right to appeal any decision. The rights of workers and employers are comparable and equal, giving both a fair opportunity to present their cases.

This pamphlet is designed to help employers and claimants understand their rights and responsibilities in the unemployment insurance appeal process. It explains the process in detail and outlines the role of Iowa Workforce Development in resolving contested cases as well as the role of higher levels of review and decision-making.

Questions about the information in this pamphlet can be answered by calling (800) JOB-IOWA (800-562-4692). For deaf and hard of hearing, use Relay 711.

**For information or guidance in the
appeal process, call:**

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Equal Opportunity Employer/Program
Auxiliary aids and services are available upon request to individuals with disabilities.
For deaf and hard of hearing, use Relay 711.

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