

UNEMPLOYMENT APPEALS HEARING

Unemployment benefits are provided to eligible workers (claimants) who become unemployed through no fault of his/her own and meet certain other eligibility requirements. The benefit is managed through the Missouri Department of Labor and Industrial Relations – Division of Employment Security (DES).

A claimant may be eligible to receive UI Benefits if the following requirements are met.

- The claimant has earned sufficient wages from insured work;
- The claimant has lost a job through no fault of his/her own or quit for a valid reason related to the work or the employer;
- The claimant is able to work and available for work; and
- The claimant is actively seeking work.

Following an action resulting in the separation of the employment relationship, the claimant may file an initial claim for UI benefits with DES. A DES official (deputy) makes a determination either granting or denying UI benefits to the claimant. If benefits are granted the deputy also makes a determination on the amount of benefits.

A claimant may appeal the DES decision to deny UI benefits or the amount of UI benefits received. Likewise, an employer may appeal the allowance of benefits or the amount. Appeals must be filed in writing with the DES within 30 days of the date of the initial determination.

A hearing is scheduled to allow the claimant and the employer the opportunity to present additional information regarding the separation for the purpose of evaluating if the previous DES decision was suitable.

Please visit DES' Appeals Hearing Information website http://labor.mo.gov/DES/Appeals/hearing_info for additional reference.

THE PROCESS OF AN APPEAL

The steps below outline how an initial claim progresses into an appeal hearing.

1. A claimant experiences a separation and files an initial claim for UI benefits with DES.
2. DES contacts the Total Rewards office for additional details regarding the claimant's separation. Total Rewards works with Human Resource Services (HRS) to provide DES with information such as the action/reason codes, termination or resignation letters and other supporting documents from the claimant's personnel record. HRS may contact the department for additional supporting documents.
3. Based on the information provided, the DES deputy issues a determination of eligibility or the amount of UI benefits to be awarded.
4. Either the claimant or employer may appeal a DES decision.
5. DES schedules a hearing in which a referee will hear details about the separation from both the claimant and employer. A notice of hearing packet is provided to the claimant and the employer. This packet contains notification of the hearing date, time and location along with any documents provided to both parties during the initial claim processing.
6. A referee conducts the hearing in which both parties have a chance to argue their case and present their evidence.
7. The referee will issue a decision based on the information provided in the hearing.

DEPARTMENTAL PREPARATION RESPONSIBILITY

It is the responsibility of the department to prepare for the appeals hearing. Notices are mailed to each party at least seven days before the hearing. Upon receiving the notice of hearing there is a limited amount of time to collect information, provide documentation and schedule witnesses.

The sections below provide guidance to department representatives on preparing for the hearing.

- *Identify who in the department will represent the employer*

The University's representative at the hearing is the person with first-hand knowledge of the facts leading to the separation. This is traditionally the direct supervisor. Human Resources cannot act as a representative. Both the complainant and the University may have legal representation. However, generally, both parties represent themselves.

- *Gather information*

The burden of proof falls to the party who initiated the action that resulted in the claimant's separation.

Upon receipt of the notice of hearing packet the representative will need to immediately review the documents. The packet will contain information from the University's response to DES regarding the employee's initial claim, and any documentation provided to DES by the employee. If any pertinent evidence is not included in the notice of hearing packet, and should be added, the representative will need to mail, e-mail, or fax these documents to the claimant and the DES referee. These documents must be received by all parties prior to the scheduled hearing date.

The representative will draft questions to ask the claimant and witnesses and prepare a list of facts that are pertinent to the claimant's separation. Do not assume the referee will have reviewed all of the materials prior to the hearing. Representatives must be prepared to present all of the facts. Examples of topics that may be reviewed are outlined in The Hearing Process section #3 presented later in this document.

- *Identify and schedule witnesses*

Representatives may request testimony from witnesses to support the department's position. Witnesses must have first-hand knowledge of the events leading up to the claimant's separation and not be repeating the same testimony. Representatives are responsible for ensuring witnesses are available for the date and time of the hearing.

If the hearing is conducted via phone the representative will need to give the name and telephone number of any witnesses at the beginning of the call. Witnesses will not be called until it is time for their testimony. It will be necessary for any witnesses to remain available at their phone for at least 45 minutes after the scheduled time of the hearing to await a call from the referee. If a witness is not available at the time of the call their testimony will not be included.

Witnesses are not allowed to be in the hearing room or on the conference call during others' testimony.

- *Final preparations for hearing day*

On hearing day representatives should have all documents and files on hand for easy reference and ensure all witnesses are present at the location or available for the call.

For hearings held in person the representative and witnesses should arrive to the location early. If a hearing is held via telephone all parties must be in a quiet location and have a reliable phone connection. **Cellular phones are discouraged. If a call is dropped during the hearing the caller's testimony ends. Participants will not be able to return to the call or be recalled.**

THE HEARING PROCESS

1. The referee will open by introducing themselves, requesting names and contact information of any witnesses, describing the purpose of the hearing and legal issues and procedures that will follow. Each party will be placed under oath and the proceeding will be recorded.
2. Each party will have an opportunity to share his/her position.
 - a. In cases where the University initiated the separation, the University representative will provide his/her testimony first.

- b. In cases where the claimant left their position voluntarily, the claimant will provide his/her testimony first.
 3. The referee will question both parties and all witnesses.
 - a. Employment questions may be related to
 - i. Dates of employment
 - ii. Position title(s)
 - iii. Salary information
 - iv. Time and attendance records
 - b. Questions related to the employment separation may include
 - i. Dates and timeline of events
 - ii. Progressive discipline history
 - iii. Details of the triggering event
 - iv. Relevant policies/procedures
 - v. Supporting documentation
 4. Each party will be provided an opportunity to ask questions of the other party and the associated witnesses. The referee will announce when that opportunity exists. Do not interrupt, ask questions or interject until the referee indicates that it is time to do so.
 5. After each party has had the opportunity to present his/her case and witnesses have been interviewed each side may offer a closing statement. At this time simply recap the case's main points, do not repeat the entire case.
 6. The referee will close the hearing. A decision will not be shared during the hearing but provided to Total Rewards after the referee has made a decision.