

Colorado Legal Services

Legal help for low-income Coloradans seeking assistance with civil legal needs



www.coloradolegalservices.org

Appeal of Denial of Unemployment Benefits

Eligibility for Benefits

To be eligible for unemployment benefits, an individual would have to establish that he is unemployed through no fault of his own. C.R.S. 8-73-108 (4) outlines the circumstances where an individual would be eligible for a full award of benefits. C.R.S. 8-73-108 (5) talks about the circumstances where an individual would be disqualified from receiving benefits.

In addition to claim acceptance, a determination as to the amount of benefits a claimant will receive is made at the time eligibility is determined. The claimant or the employer has the right to appeal the calculation they disagree on the amount of wages and/or length of time benefits are based on.

Colorado has information on the state website for the Department of Labor, [click here](#). A Guide to the Appeals Process will be available here soon and is forthcoming.

If you are denied benefits or penalized the time of acceptance or after the claim is open, you must timely appeal that decision. An appeal generally must be filed within twenty calendar days (on the next business day if the 20 days falls on a Saturday, Sunday or holiday) of the notice. You **MUST** check your notice to verify your time to appeal.

Hearing

If an appeal is timely filed, a hearing will be set. You can appear in person at the hearing, or you can appear by telephone. Check with the administrative court to see how social distancing can be accommodated during COVID19, In normal times, we strongly recommend that whenever possible, that you appear in person for hearings.

If you decide to appear by phone, you should call the phone number given on the Notice of Hearing, at the scheduled hearing date and time. You should not call the number given for the hearing for any other reason than appearing, by phone, at the hearing. If you have any questions, you can contact the Appeals Office.

Even if you request a continuance, you must be prepared to proceed on the scheduled hearing date. If one party fails to appear, the Hearing Officer will generally find for the party that appears. For this reason, we encourage you to appear at the hearing, whether in person or by phone.

Evidence

You must be prepared to establish that you are entitled to benefits and that you were not at fault in the termination. You should determine what written evidence or other evidence you wish to present in support of your claim for unemployment benefits. If you wish to present any documents as evidence (referred to as exhibits) at the hearing, you need to mail or fax the documents to the Hearing Officer, your former employer, and your former employer's representative (if any) before the date of the hearing.

While there is no specific deadline for providing this information, you should provide it as soon as possible after receiving the notice and as far in advance of the hearing as possible. The exhibits should be mailed to the Hearing Officer, your former employer, and/or your former employer's representative (if any) to the addresses listed on the notice.

You should also take copies of any exhibits you want to use with you to the hearing, or if appearing electronically, have those exhibits with you. You should have a set of exhibits available for the Hearing Officer, and your former employer or the representative (if your former employer or the representative appears in person), as well as a copies for yourself and the witness. You will not know ahead of time whether your former employer or their representative will appear in person or by telephone.

If you want the Hearing Officer to consider any of your evidence you need to ask that the evidence be introduced into evidence as an exhibit. You need to make this request at the hearing, and make the request for each exhibit that you want the Court to consider. If you do not request that the exhibits be received as evidence at the hearing, they will not be considered. It is likely that your former employer will also introduce exhibits at the hearing. Your former employer should give you copies of all documents they intend to use. If they do not provide this, you can object to the documents being used at the hearing. You must object in order to keep a document out. If the Hearing Officer does not agree with your objection, he or she will still make note of your objection, for the record.

Subpoenas

If you plan to subpoena any documents from your former employer, you should do this immediately after receiving the Notice of Hearing. You will first need to request a subpoena from the Appeals Branch, telling them what documents you want and why they are necessary. If the subpoena is approved, the DOL will mail it to you. You would then need to serve it upon your former employer and/or the representative (if there is a representative) and provide proof that you did so to the Appeals Branch. The former employer would then be responsible to provide you the documents before the hearing. This can be a time-consuming process, so if you are planning to do this, you should do it immediately after you receive the Notice of Hearing.

However, if you believe these records will not be beneficial to your case, you may not want to

subpoena them. If you subpoena any documents and then, after receiving a document, you decide that it does not support your claim, you do not have to ask that it be introduced into evidence.

Information from your Former Employer

You should receive copies of the documents that the employer intends to rely on. You can object to the introduction of their work records into evidence if you believe they are incorrect, but the hearing officer may allow the records in anyway. If they are allowed in, you can ask questions about them.

It is likely that your former employer will bring up specific reasons for their belief that you should be disqualified from receiving unemployment benefits, and specific incidents to support their claims. You should carefully review what they say in the information they provide the DOL (which you will receive together with your notice of hearing), and the information you already have, to prepare.

Witnesses

If you are planning to have any witnesses testify on your behalf, you must have those persons available, whether in person or by telephone, at the time of the hearing. When a witness testifies, the Hearing Officer and the other party can ask questions of that witness.

We recommend keeping your questions specific and brief. There will be a time constraint, as most unemployment hearings are scheduled for one hour.

Outcome

You must be sure that you present all your witnesses and exhibits, if any, at the hearing. The Hearing Officer will not contact witnesses or review information not entered into evidence after the hearing and will base the decision on only the testimony and evidence provided at the hearing.

After the hearing, you will receive a decision in the mail. The Hearing Officer will often inform you of the timeframe before the close of the hearing. You should read the Decision carefully. If you receive a favorable decision, you should start receiving unemployment benefits.

A favorable decision can be appealed by your former employer. You can appeal an unfavorable decision. The deadline to appeal will be noted in the Decision.

Be sure while your unemployment appeal is pending, that you comply with all requirements of the Workforce office including calling the CUBline.

A guide to the appeals process is provided by the state entitled The Appeals Process and is available from the state unemployment office or [click here](#) for more information.

This information is not to be considered legal advice, and is provided as general information only. By providing this information, we are not acting as your lawyer. If you need legal advice for any specific situation, contact an attorney of your choice.

The information is accurate to the best of our knowledge as of the date noted on the materials, but laws, regulations, court forms and court opinions change periodically so we cannot promise that this information is always up-to-date and correct.

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