

# Employer's Guide To The Appeals Process

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## Introduction

This pamphlet is mailed to an employer whenever an appeal has been filed from a decision of the Unemployment Compensation Department which may result in potential charges to an employer's account. If you have not filed an appeal and you receive this pamphlet in the mail, this means that your former employee has appealed from a decision of the Unemployment Compensation Department denying him or her benefits. Your tax liability may be affected by this appeal. With this pamphlet, you should also have received a Notice of Hearing Before a Referee with the date, time and place of the hearing. Whenever you receive a determination with which you disagree, you should appeal as soon as possible. Most decisions give you twenty-one (21) days to appeal. Information about filing and pursuing an appeal is found within the **Steps in the Appeals Process: the Who, What, When, Why and How** section and elsewhere in this booklet.

Information in this pamphlet will help you understand the unemployment compensation law, determine the effect on your unemployment tax liability, and prepare and present your appeal in the most effective manner. Please read this material carefully. If you have any questions, you may contact the Merit Rating Unit, the Call Center, or the Appeals Division.

This pamphlet was written so that all employers would be able to understand the appeals process without the help of a lawyer. In a few places we have used technical terms which may be used during the hearing, and you should become

familiar with them. One such term is "the Administrator." The Administrator is the State Labor Commissioner, who administers the Unemployment Compensation Act. The terms "Administrator" and "Unemployment Compensation Department" mean the same thing in this pamphlet. The Appeals Division is separate and independent from the Unemployment Department and is not bound by any decision of the Administrator.

Appeals procedures are designed to carry out the unemployment compensation statutes and regulations. This pamphlet summarizes the law but does not have the force and effect of law. The statutes and regulations of both the Unemployment Compensation Department and the Appeals Division are available for inspection at all Job Centers and Appeals Division offices. They are also accessible on the Internet. At these offices you may also consult the Appeals Division's Precedent Manual and electronic index (ADLIB), which contain major court and Board of Review decisions interpreting the Unemployment Compensation Act. Addresses, telephone numbers, and fax numbers of these offices, the local telephone numbers for the Call Centers, and the Appeals Division's Internet address, are listed under "**Listing of Appeals Division Offices, CTWorks Career Centers and Call Centers**".

## Highlights

- **Filing Your Appeal.** You have only twenty-one (21) calendar days from the date of the Administrator's decision to file an appeal with the Appeals Division. Do not delay. Likewise, you have only twenty-one (21) calendar days from the date of the Appeals Referee's decision to file an appeal to the Board of Review. Do not delay filing your appeal at either step. See "**Steps in the Appeals Process: The Who, What, When, Why and How**" and Appeal to the Board of Review for further information.
- **How to File.** You may obtain a form from the Unemployment Compensation Department, write a letter to the Appeals Division containing the basis for your appeal, or use the form on the Internet at <http://www.ctdol.state.ct.us/appeals/apfrmnt.htm>. See "**Steps in the Appeals Process: The Who, What, When, Why and How**" and Appeal to the Board of Review for further information.
- **File in Person, by Fax, by Internet, or by U.S. Mail.** You may file in person at any CTWorks Career Center or at any Appeals Division office, or by fax or Internet. If you file by mail, use the U.S. mail, or a private delivery service approved by the IRS: Airborne Express, DHL Worldwide Express, Federal Express, or United Parcel Service. Use a stamp, not a private postal meter, so the date of mailing can be determined by the official

U.S. Postal Service postmark. See "**Steps in the Appeals Process: The Who, What, When, Why and How**" and Appeal to the Board of Review for further information.

- **Preparing Your Case.** Determine what law applies to your case and what documentation and witnesses you will need to present a strong case. Proper documentation and credible, first-hand witnesses are vital to your success. See "**Preparing for the Hearing**" for further information.
- **Documentation.** Official business records such as time cards, financial records, written warnings, records of progressive discipline proceedings, employee handbooks, contract of hire, the employee's application for employment, medical records, police reports, and other agency reports (CHRO, Workers' Compensation, rehabilitation reports, etc.) are examples of relevant documentation. Bring enough copies for the Referee and the claimant. See "**Preparing for the Hearing**" for further information.
- **Witnesses.** Witnesses with first-hand, personal knowledge of the circumstances leading to the separation are vital to your case. Have those witnesses attend the Referee's hearing in person. Written statements by witnesses with first-hand knowledge will be given little, if any, weight if the author is not available for cross-examination. See "**What Goes on at the Hearing**" for further information.
- **Attendance at Scheduled Hearings.** If you file an appeal and do not show up at the hearing, you will probably lose the case. You may be able to get another hearing only if you can show good cause for not appearing, such as sudden, documented illness, a personal emergency, or a major emergency at work (fire, etc.). Overslept, press of business, unexpected appointment, forgot, your secretary did not remind you, lost the hearing notice, and similar excuses are not good reasons. The Referee's hearing will likely be your only opportunity to present witnesses and documentation in support of your case. The Board of Review rarely conducts hearings. See "**Once an Appeal is Filed**" for additional information.
- **Requesting a Postponement.** Ask for a postponement as soon as possible if you have an unavoidable conflict. Last minute requests are generally denied unless you have a real emergency, as described above. See "**Once an Appeal is Filed**" for additional information.
- **Representation.** Although representation is not usually necessary, you may bring legal or other professional representation to the hearing if you wish. You may request a list of independent hearing representatives by

completing the web form at <http://www.ctdol.state.ct.us/appeals/HearingReps.htm> However, witnesses with first-hand knowledge are still vital to the success of your appeal. Please read the above section about **Witnesses** again. See "General Information", and "Preparing for the Hearing" for further information.

- **Free Video.** A video describing the hearing process is available for viewing on this web site at <http://www.ctdol.state.ct.us/appeals/VideoIntro.htm>. See "General Information" for additional information.

## General Information

### *Q. Do I need a lawyer?*

A. Usually not. By carefully following the instructions in this pamphlet, an unrepresented employer should be able to gather the necessary evidence. The Referee will assist you in presenting your case. However, you have the right to be represented by an attorney or other representative of your choice. You may request a list of independent hearing representatives by completing the web form at <http://www.ctdol.state.ct.us/appeals/HearingReps.htm> If you have a representative, you are responsible for paying your representative's fee. If you do not have a representative at the Referee's hearing and later decide that you should have one, this will not provide good cause for another Referee's hearing.

If you are represented by an agent representing you for a fee, that agent must register with the Board of Review and comply with the code of conduct promulgated by the Board. The agent may be subject to a penalty for violations of the code.

If you have other legal disputes with your employee, such as arbitration, workers' compensation, or discrimination cases, and you are represented in these disputes, you should inform your attorney or representative about the unemployment claim. Although an unemployment compensation decision cannot be used against you in any other case, what happens in your unemployment appeal may affect other disputes with your employee.

### *Q. Can an employee collect benefits while working part-time?*

A. Yes. The employee may be eligible for partial benefits. Two-thirds of the employee's earnings will be deducted from his or her benefits for the weeks during which the employee works part-time. An employee can continue

collecting partial benefits until the weekly earnings from part-time employment exceed 150% of the weekly benefit rate.

*Q. How can the claimant collect benefits if he or she was such an unsatisfactory worker?*

A. An employee's eligibility and your chargeability are determined solely by the Unemployment Compensation Act. You may have been entirely justified in discharging an employee, but the claimant will not be disqualified from collecting benefits unless you prove disqualifying conduct under the Act. Once benefits have been awarded, they will continue unless and until the award is reversed by a higher authority.

*Q. What if my former employee agrees to give up the right to benefits?*

A. The law prohibits you from asking your employees to give up their benefits. If an employee made such an agreement, it is void and the employee is not bound by it. You may not interfere with an employee's claim for benefits or appeal.

The law protects any employee who files a claim for benefits or who testifies as a witness from retaliation by an employer. An employee who is disciplined or discriminated against because of participation in an unemployment compensation proceeding can file a complaint with the Labor Commissioner. Remedies include reinstatement, back pay, and attorney's fees.

*Q. Do I have to allow my former employee access to his or her personnel file?*

A. Yes. State law says that you must permit a former employee to review and copy his or her personnel file, including medical records, for at least one year after separation from employment. You can require that the employee put the request in writing, but do not delay providing access. The Referee may insist you provide access prior to the hearing. See **Section 31-128b of the General Statutes** for more information.

*Q. Where can I get more information about the appeals process?*

A. From the Appeals Division, any CTWorks Career Center or the Merit Rating Unit, in person, by mail, or by phone at the Call Center between 8:30 A.M. and 4:30 P.M., Monday through Friday. Every effort will be made to answer any questions and to take appropriate action on your request or appeal. If you have questions about your tax liability, contact the Merit Rating Unit at (860) 263-6705. However, such inquiries will not stay the appeal period or delay a hearing unless the Referee specifically grants a postponement request.

You may also wish to visit the Appeal Division's Internet site at [www.ctboard.org](http://www.ctboard.org). In addition to general information, this site contains the Online Hearing Docket; ADLIB, an electronic index of Board of Review decisions; a form for filing an appeal; the video describing the hearing process; and the unemployment compensation statutes and regulations.

The Appeals Division has a twenty-minute video explaining the appeals process and showing you what goes on at the Referee's hearing. The video is available for viewing on this web site at

<http://www.ctdol.state.ct.us/appeals/VideoIntro.htm> If you are unable to view the video from the website, you may request that a copy be mailed to you. For a copy of the video, call the Appeals Division office nearest you or fill out the form on our Internet site. You may also view this video, by prior arrangement, at any Appeals Division office.

FOR A FREE VIDEO SHOWING WHAT AN APPEAL HEARING IS LIKE, CALL ANY APPEALS DIVISION OFFICE OR FILL OUT THE FORM ON OUR INTERNET SITE.

## Steps in the Appeals Process: The Who, What, When, Why and How

### *Q. What happens once an appeal is filed?*

A. It is forwarded to the appropriate office of the Appeals Division for the scheduling of a hearing before an Appeals Referee.

### *Q. What are the steps in an unemployment compensation appeal?*

A. The initial decision to award benefits and to assess a charge against an employer's account is made by the Administrator. The losing party can appeal the Administrator's decision to the Appeals Referee. The Referee's decision can be appealed to the Board of Review, and the Board's decision can be appealed to the Superior Court.

### *Q. Who can file an appeal?*

A. You, your former employee (the claimant), or any other base period employer of your former employee who is affected by a decision of the Administrator.

*Q. What can be appealed?*

A. Any determination of the Administrator can be appealed. Whenever you receive a decision with which you disagree, you should file an appeal at once. The only exceptions are for tax assessments due to delinquent reporting of wages and administrative penalties for intentional misrepresentation. Pursuant to Section 31-270 of the General Statutes, these decisions must be appealed directly to the Superior Court. All other tax issues should be appealed to the Referee like any other decision of the Administrator.

*Q. What if the claimant is not claiming benefits against my account?*

A. Neither you nor the claimant has a choice about which employer is charged for a claim. This is determined by law. A separation from your employment within the applicable period may affect the claimant's eligibility for benefits or your unemployment tax rate.

*Q. What if the claimant has returned to work?*

A. The appeal will still determine the claimant's entitlement to benefits (and your chargeability) during the time when the claimant was unemployed and filed for benefits. Moreover, if the claimant is not fully unemployed, he or she may be eligible for partial benefits. (See the second question under General Information.) Your potential liability remains in effect if the claimant collects partial benefits.

*Q. Will an appeal affect the payment of benefits?*

A. If a decision by the Administrator or the Referee awards benefits, the claimant will receive payments even though a further appeal is pending. If a decision rules that a claimant is ineligible, benefits will cease unless and until that decision is overturned on appeal. If the final decision is not in the claimant's favor, the claimant may have to pay back the benefits received. No charges will be assessed against your account while an appeal is pending.

*Q. What if I receive another notice of liability from the Administrator regarding the same employee while an appeal is pending?*

A. You should file another appeal unless the new notice specifically tells you not to. If you are in doubt, file the appeal. If you fail to file an appeal within twenty-one (21) days, the decision will become final.

*Q. Can an appeal be withdrawn?*

A. Yes. A claimant or employer who files an appeal may withdraw it at any time before the Referee's decision is issued. You should withdraw your appeal only if you decide that the Administrator's initial decision is correct.

*Q. What if an appeal is late?*

A. It may be dismissed, in which case the Administrator's decision will be unchanged. If you wish to appeal, do so promptly in person, by mail, by fax, or by Internet at any CTWorks Career Center or Appeals Division office. Do not wait for information or documents. You can obtain whatever you need while the appeal is being processed. If your appeal is late, you must indicate the reason. If it is determined that you had good cause for filing a late appeal, the Referee will be able to hear your case.

An appeal filed by mail must be postmarked (by the United States Postal Service; private postage meters are not acceptable. If you use a private delivery service, it must be one approved by the IRS: Airborne Express, DHL Worldwide Express, Federal Express, or United Parcel Service.) or received within twenty-one (21) calendar days of the date the first notice of potential liability was mailed to you. If the offices of the Unemployment Compensation Department are closed on the twenty-first day, you have until the next business day to file an appeal. If you file by fax or by Internet, your appeal must be received by the Department of Labor by 11:59 p.m. on the twenty-first day. Fax numbers and the Board's Internet address are listed under "Listing of Appeals Division Offices and *Connecticut Works Centers*."

REMEMBER: APPEALS MUST BE FILED ON TIME. FOLLOW THE INSTRUCTIONS IN THE DECISION YOU RECEIVE, AND SEE STEPS IN THE APPEALS PROCESS: THE WHO, WHAT, WHEN, WHY, AND HOW AND APPEAL TO THE BOARD OF REVIEW.

## Once An Appeal is Filed

### *Q. How will I be notified of the hearing?*

A. A Notice of Hearing will be mailed to you, the claimant and the Unemployment Compensation Department indicating the time, date, place, and the issues to be covered. Attached to the Notice of Hearing may be relevant documents, such as the claimant's fact finding statement or appeal, if these documents were not previously provided to you. Read these documents carefully. They will help you prepare your case. By law, the notice need only be mailed to you five calendar days before the scheduled hearing. In practice, the Appeals Division tries to provide notice of a week or more. Because the notice is so short, you should start to prepare your case as soon as you are aware of an appeal.

The Appeals Division's Internet site contains the Online Hearing Docket, which lists all hearings within twenty-four hours of their being scheduled. If you lose your hearing notice or want the quickest possible notice of when your appeal is scheduled, you should check this site.

### *Q. What should I do if I am unable attend the hearing?*

A. Notify the Appeals Division **immediately** and request a postponement. The telephone number of the Appeals Division office is printed at the top of the Notice of Hearing. Postponements are granted only for very good reasons. If you or a key witness are unable to attend for any reason, make sure that you notify the Appeals Division as soon as possible before the hearing to see if any other arrangements are possible.

### *Q. What happens if one of the parties fails to attend the hearing?*

A. If the party that appealed does not attend, the appeal will probably be dismissed and the Administrator's decision will stay the same. *If the claimant appealed and you fail to attend the hearing, the Referee's decision may be based solely on the claimant's testimony.* Therefore, it is very important that you attend the hearing unless a postponement is granted.

### *Q. What if I have a speech, hearing or language problem?*

A. Notify the Appeals Division, and everything possible will be done to provide assistance. If you need an interpreter, notify the Appeals Division at once, and an interpreter will be provided for you.

## Preparing For The Hearing

*Q. How should I prepare for the hearing?*

A. Start immediately to gather any papers relating to the issues such as correspondence from the claimant, union contracts, warning notices or medical statements. *Also, be certain that any witnesses who have direct knowledge of the events in question are available to attend the hearing.*

If you plan to hire a lawyer or other representative, do so as soon as possible, so that person will have time to prepare. Notify the Appeals Division of the name and address of your representative so that person can be informed of hearings or other proceedings. You must decide before the hearing whether you need representation. You will not be given a new hearing just because you later decide that you should have been represented.

*It is your responsibility to present evidence and testimony to prove your case. The Referee does not investigate or contact witnesses for you. He or she will act on the basis of information in the file and evidence and testimony presented at the hearing. The Referee will not usually be able to consider evidence provided after the hearing.*

*The hearing before the Referee is the only chance that you will have to tell your story. Be prepared to tell the Referee everything you think is important and to present all witnesses and evidence at the hearing. The Referee will limit the testimony to issues that are relevant to the case. You will not be allowed another hearing to present evidence which you failed to offer the first time unless you had good cause for your failure.*

*Q. What if I need to subpoena a witness?*

A. If you have an attorney, that person will issue any necessary subpoenas. Otherwise, notify the Appeals Division immediately. The Referee will determine whether a subpoena is necessary and, if so, arrange for it to be served.

*Q. When should I arrive for the hearing?*

A. At least ten minutes early. If you wish to review the case file, make arrangements to do so before the day of the hearing. In some cases, it may be possible to review the file on the day of the hearing, but you must confirm this with the Appeals Division. The case file contains statements made by you and the claimant, copies of the Administrator's determination and the appeal statements, and any other documents submitted by any party to the appeal. This information will help you prepare for the hearing.



record the entire proceeding. You may obtain a copy of the tape recording by contacting the Appeals Division.

*Q. Are the rules of the hearing the same as in court?*

A. No. The rules of evidence do not apply. The law allows the Referee to question the parties and review written or printed records to ensure justice for all interested parties.

Hearsay testimony, that is, repetition of statements made by persons who are not present at the hearing, *may* be acceptable. However, direct testimony is considered better evidence. If the claimant offers direct testimony on an issue and you reply with only hearsay evidence, the Referee will probably give greater weight to the testimony of the claimant. *Whenever possible, bring to the hearing the person or persons who witnessed the events in question or who have first-hand knowledge.* This means that the testimony of the foreman or supervisor is usually more valuable than that of the personnel director or an executive.

*Q. How can I best prove my case?*

A. Present the best evidence possible, including a description of events and circumstances by the individual primarily involved, any documents concerning the issue, and any witnesses who observed or were directly involved in what happened. If the claimant's separation was the result of an incident involving a supervisor or a co-worker, the testimony of the personnel director will usually not be sufficient.

Depending on the issues involved, you may need to bring any of the following: the claimant's personnel file, medical records, job description, employment application, attendance and payroll records, warning notices, union contract, company rules and procedures, and police or witness reports. You must provide copies of any documents you intend to submit to the Referee and to the claimant. Bring these copies with you to the hearing.

If the claimant left work voluntarily, then it is the claimant's responsibility to prove that the separation was for good cause attributable to the employer or for other reason permitted by law. However, if you discharged the claimant, you must prove that you did so for one of the following disqualifying reasons as defined by the Unemployment Compensation Act: willful misconduct, larceny, felonious conduct, participation in an illegal labor dispute, or failure of a legally permitted drug test. Unless you are a reimbursable employer (for which there are special rules), you will be relieved of charges if you establish one of these disqualifying causes. *Be sure you know all the elements that you must establish in order to prove your case, and be prepared to offer testimony and evidence on each element.* Make sure that you present to the

Referee all evidence, such as warnings and attendance records, that support your charges against the employee.

*Q. Who else will be at the hearing?*

A. The claimant will usually be present, and the Unemployment Compensation Department may also be represented. Although the hearing will be open to the public, and anyone who is interested may attend, usually only the parties are present. If you believe that the hearing involves sensitive matters that would constitute an invasion of your privacy, you can ask the Referee to close the hearing to the public.

*Q. How will I know what to tell the Referee?*

A. The Referee will ask questions designed to obtain the necessary information. Listen carefully, and answer directly and plainly. Give complete and accurate information, without rambling or bringing in unrelated issues. You will be permitted to question the other parties and witnesses. Before the end of the hearing, the Referee will provide you an opportunity to add anything you feel is important and to make a closing statement.

*Q. What if I fail to bring something or need to obtain more evidence?*

A. You should ask the Referee to continue the hearing so that you can get whatever is needed. The Referee will grant your request only if he or she determines the information is relevant and you have a good reason for not having it with you. The Referee will consider only information, evidence, and testimony presented prior to or at the hearing. *You will not be allowed to introduce additional evidence once the hearing is over unless the Referee has agreed to keep the record open.*

THE REFEREE'S HEARING IS YOUR ONLY CHANCE TO TELL YOUR STORY. MAKE SURE THAT YOU PRESENT ALL THE WITNESSES AND EVIDENCE YOU NEED TO WIN. YOU ARE NOT LIKELY TO BE GIVEN ANOTHER HEARING.

## The Referee's Decision

*Q. What will the Referee's decision be based on?*

A. Only information admitted into the record by the Referee is used to decide the case. It is your responsibility to present this information. The Referee will not investigate or contact witnesses. The statutes, regulations, and decisions of the Board of Review and the courts guide the Referee in deciding the issues.

*Q. Is financial need a factor in the decision?*

A. No. The claimant's financial need has nothing to do with the decision. The Unemployment Compensation Act is an insurance program designed to pay benefits to people who are unemployed through no fault of their own and who are actively seeking work.

*Q. How will I be informed of the decision?*

A. The Referee will mail a written decision to you, your representative, and other interested parties and their agents, including the Unemployment Compensation Department, as soon as possible. The decision will explain your right of appeal.

## Determining the Effect of a Claim on an Employer's Unemployment Insurance Account

*Q. How can I determine the effect of a claim on my account?*

A. When an individual files a claim for unemployment compensation, he or she establishes a benefit year, which lasts for twelve months. Within that year, the claimant is eligible for up to twenty-six weeks of regular benefits at his or her full weekly benefit amount. The period of time used for determining how much money the claimant is eligible to collect is called the base period, defined as the first four of the five most recently completed quarters at the time the claim is initiated. Under some circumstances, a claimant may use an alternate base period which includes the latest completed quarter. Connecticut charges unemployment compensation benefits on a proportional basis to each one of the claimant's base period employers.

Each employer's charge is based on a percentage which is computed by dividing the base period wages paid by that employer by the total of all the claimant's base period wages. The percentage is then applied to each payment the

claimant receives during the benefit year, thus allocating each payment as charges to a particular base period employer.

Charges against an employer's account are used in computing that employer's unemployment compensation rate (except for reimbursable employers, which are billed directly on a dollar-for-dollar basis). The tax rate is based on the employer's experience during a three-year period ending on June 30th of the year prior to the year for which the tax was calculated. This period of time is referred to as the experience period.

In order to establish the employer's tax rate, a benefit ratio is calculated by dividing the total benefit payments charged to the employer's account during the experience period by the total taxable wages (limited to the first \$15,000 paid to each employee). The result is the employer's charge rate. The maximum charge rate under the law is 5.4%. The minimum is currently .5%. A fund solvency tax (which ranges from 0 to 1.4%) is then added to the charge rate to determine the employer's total tax rate. A taxable employer has no liability if it paid an employee less than \$500 in his or her base period.

If you paid more than \$500 in the base period of the claimant's benefit year, you will receive a Notice of Potential Liability (Form UC-280) when the claimant is first paid in that benefit year. This notice shows the claimant's weekly benefit rate, your weekly charge amount, and your maximum total liability if the claimant collects for twenty-six weeks in that benefit year. If your weekly charge rate is less than the claimant's weekly benefit rate, this means that the claimant's other base period employers have also received notice of their liability. Each of these employers has the right to appeal. An employer's right to appeal is limited to the first notice of potential liability that it receives.

If you want help in determining the exact consequences of a claim for benefits on your tax rate, you may contact the Merit Rating Unit.

***Q. What does it mean if the hearing notice is marked "chargeability only"?***

**A.** If the claimant returned to work after being separated from your employ and earned ten times his or weekly benefit rate before filing a claim for benefits, the claimant cannot be disqualified regardless of the reason for separation. Nothing that happens at the Referee's hearing will affect the claimant's benefits if the Notice of Hearing is marked "chargeability only." The sole purpose of the hearing is to determine whether charges should be assessed against your account.

*Q. If I'm not now a base period employer (and thus am not presently chargeable), should I still pursue an appeal?*

A. Yes. Although wages you paid the claimant may be too recent for the claimant's current base period, they can be used for the base period of a future benefit year. You will receive a Notice to Employer of Approval of Claim for Benefits (Form UC-56KC). Your appeal from this notice will determine the claimant's eligibility for benefits and your future chargeability. You will not have another opportunity to contest the claim or your chargeability if the claimant files a valid claim in a subsequent benefit year using wages that you paid in the claimant's new base period.

*Q. What if I appeal and the decision is in my favor?*

A. If that decision is not appealed within twenty-one (21) calendar days, it will become final. The claimant will be asked to repay the benefits received and your account will not be charged, providing that you participated in the Administrator's fact finding hearing. If you received notice but did not participate, you will be liable for any benefits paid to the claimant prior to the issuance of the Referee's decision for any week beginning prior to the forty-second day after the end of the calendar week in which you filed your appeal. The claimant will not be charged with an overpayment of benefits received during this period.

*Q. Will my account be charged if the claimant doesn't pay back the benefits?*

A. Your account will be relieved of charges for benefits paid to the claimant if the claimant has been found ineligible even if the claimant fails to repay the overpayment or the overpayment is waived, except for those charges imposed for benefits paid because the employer failed to participate in the fact finding hearing.

*Q. Can I appeal from an assessment of charges against my account because of the overpayment created when I failed to participate at the fact finding hearing and then prevailed before the Referee?*

A. In the decision reversing the Administrator's award of benefits, the Board of Review or the Referee will notify the employer that it has a potential liability for the overpayment created because it did not participate in the fact finding hearing. Any charges imposed against a contributing employer's account will be reflected in the employer's quarterly charge statement (UC-54Q). The employer may protest the charges within sixty (60) days after the quarterly statement is issued if this is the first notification of those charges. In the case of a reimbursing employer, charges will be reflected in the employer's

monthly billing statement. A reimbursing employer may appeal its assessment of charges within twenty-one (21) days after the monthly billing statement if this is the first notification of these charges.

## Appeal to the Board of Review

*Q. What can I do if the decision is not in my favor?*

A. If you disagree, you can appeal to the Employment Security Board of Review. If you have new or additional information, you can write to the Referee and ask to have the case reopened. Usually, a motion to reopen will be granted only if you give a good reason why you did not present the information at the Referee's hearing. If you did not attend the Referee's hearing, the case will not be reopened unless you prove to the Referee (usually at a new hearing) that you had a good reason for not attending. If the case is reopened, another hearing may be held, if needed. A new decision will be issued, which can also be appealed.

*Q. How do I file an appeal from the Referee's decision?*

A. The decision explains how to appeal or request a reopening of the case. If your appeal or motion to reopen is mailed, it must be postmarked (by the United States Postal Service; private postage meters are not acceptable. If you use a private delivery service, it must be one approved by the IRS: Airborne Express, DHL Worldwide Express, Federal Express, or United Parcel Service.) or received within twenty-one (21) calendar days of the mailing date of the decision. If the offices of the Unemployment Compensation Department are closed on the twenty-first day, you will have until the next business day to file your appeal. You may also file your appeal in person, by fax, or by Internet. Be sure to read any decision or letter promptly, and do not delay filing your appeal.

*Q. If I appeal to the Board of Review, will I have another hearing?*

A. Probably not, which is why you should say everything you feel is important at the Referee's hearing. Give specific facts. Failure to raise issues at the Referee's hearing may prevent consideration of them at higher levels.

*Q. How will the Board of Review handle the appeal?*

A. The Board of Review will acknowledge your appeal and give you ten additional days to submit a written statement in support of your case. It is important that you tell the Board every reason why you believe the Referee's decision was wrong. The Board will then review all the material in the case file

and listen to the tape recording of the hearing before the Referee. A decision will be issued either affirming (agree with), reversing, or modifying the Referee's decision. If the Board feels that further information is needed, the case may be remanded (sent back) to the Referee for a new hearing or to the Administrator for further investigation and a new decision. If you are not satisfied with the Board's decision, you have thirty (30) calendar days to file a motion to reopen with the Board or a further appeal to the Superior Court. The Board's decision explains how to do this. In any appeal to court, a corporation must be represented by an attorney.

*Q. Can anyone else appeal or request reopening?*

A. Yes. The claimant and the Unemployment Compensation Department also have the right to appeal decisions of the Referee or the Board of Review if they are adversely affected by the decision.

IF YOU HAVE A GOOD CASE, IT PAYS TO APPEAL. WHEN EMPLOYERS APPEAL TO THE REFEREE AND SHOW UP AT THE HEARING, THEY WIN ABOUT 40% OF THE TIME.

### Appeals Division Offices, *Connecticut Works Centers and Call Centers*

Appeals Division On Line  
Internet Web Site: <http://www.ctboard.org>

#### REFEREES

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