

Sec. 31-237g-11. Representation by attorney or agent; authorization; notice; fees; amicus curiae

(Statutory reference: 31-272(b)(2))

- a. Any party to a proceeding before the Appeals Division may be represented by an attorney or an authorized agent, or both, provided that at any hearing before the Appeals Division, the Referee or the Chairman, as the case may be, may limit oral participation during such hearing to only one such representative of each party designated by that party. Any individual, corporation, partnership or other association may, subject to the provisions of subsection (e) hereinafter set forth, serve as a party's authorized agent provided that any authorized agent that represents a party for a fee shall comply with sections 31-272-1 to 31-272-18 of the Regulations of Connecticut State Agencies. The Appeals Division may refuse to provide a second hearing to any party who, without good cause, fails to obtain representation for the original hearing and thereafter alleges that a second hearing is necessary to allow such party the benefit of such representation.
- b. If the file record of any proceeding before the Appeals Division indicates that any party has been represented in such proceeding by an attorney or an authorized agent, or both, such representation shall be considered to be of record for the Appeals Division's purposes concerning such proceeding unless and until a written withdrawal of such representation signed by such party is filed with the specific Appeals Division office involved or a new representative is substituted. Except as otherwise herein provided, the Appeals Division may refuse to accept any document or other communication, written or oral, from any individual or entity on behalf of any party unless such communication to the Appeals Division is preceded or accompanied by a written statement personally signed by such party designating such individual or entity as authorized agent of record for such named party with regard to such proceedings before the Appeals Division. **A written statement signed by** an attorney announcing representation of a named party with regard to specifically identified proceedings before the Appeals Division shall constitute sufficient notification to the Appeals Division of such attorney's status as representative of record for that party during such proceedings.
- c. Whenever the file record of any proceeding before the Appeals Division indicates that a party is represented by an attorney or an authorized agent, or both, the Appeals Division shall mail to each such attorney and agent a copy of all correspondence, notices or decisions mailed to such party simultaneous with the mailing of such materials to the party. Notice to such attorney or agent shall constitute effective notice to such party.

- d. The cost of representation permitted by this section shall be the expense of the party obtaining such representation but no attorney or authorized agent shall charge or receive for representation of a claimant in proceedings before the Appeals Division more than the amount approved for same by the Referee or the Board, as the case may be, before whom the proceedings took place, provided the Appeals Division shall not be obligated to set such a specific approved fee for claimant representation unless: (1) during proceedings upon the appeal or at any time prior to the decision on the appeal becoming final, the claimant or the representative on the hearing record at a hearing before the Referee or by way of a written request filed with the Appeals Division pursuant to the guidelines set forth in Section 31-237g-10(a) of these regulations, requests the Appeals Division to set an approved fee; or (2) during proceedings upon the appeal or at any time prior to the decision becoming final, the Referee or the Board, as the case may be, on its own initiative, specifically includes the issue of an approved claimant representation fee among the matters to be decided concerning such appeal; or (3) within thirty (30) days following a claimant's receipt of the written charged expense for such representation, the claimant, in accordance with Section 31-237g-10(a) of these regulations, files with the Referee or the Board, as the case may be, a written objection to such charged expense. In the event that the claimant representation in question occurred solely before a Referee, the Referee shall possess initial jurisdiction over the issue of fees, but if such claimant representation occurred before both a Referee and the Board, then the Board shall possess jurisdiction over the entire issue of claimant representation fees. If the issue of an approvable claimant representation fee is raised and fully heard at an evidentiary hearing upon the appeal, the Appeals Division decision upon the appeal shall set an approved fee. If the issue of an approvable claimant representation fee is raised by the filing of a written objection to charged claimant representation fees or the filing of a written request for the setting of an approved fee and not otherwise covered at a hearing, the Referee or the Board, as the case may be, shall mail to both the claimant and the claimant representative involved notice of such matter and both the claimant and the representative shall have the right, and such notice shall advise them of the right, to file with such Referee or the Board, as the case may be, within ten (10) days of the mailing date of such notice, written argument on such matter, request for an evidentiary hearing concerning such matter and, in the case of such a matter before the Board, request for decision of such matter by the full, three-member Board. Following the expiration of such ten day time limit the Referee or the Board, as the case may be, may, on its own initiative or in response to a timely request therefore, schedule an evidentiary hearing upon such matter and, in such event, the hearing and subsequent decision on such fee issue shall occur pursuant to these regulations. If a hearing is not granted, the Referee or the Board shall, following the expiration of said ten day time limit, review such matter on the record and, pursuant to these regulations, issue a decision upon the matter which shall address any such written argument and requests timely filed with regard to same. In determining approvable fees for claimant representation, consideration will be given to several factors including,

but not limited to, any initial fee arrangement mutually agreed to by the claimant and the representative, the time necessarily expended by the representative, the complexity and difficulty of the facts and issues involved, the skill of the service provided and the results obtained, in comparison to, and with special regard for, the amount of benefits involved, the remedial purposes of unemployment compensation and the financial resources of the claimant concerned. Except in extraordinary cases, an approvable fee may not exceed twenty percent of the benefits potentially payable to the claimant as a result of the claim under adjudication plus reasonable and necessary costs. In separation cases, the benefits potentially payable are the greater of either the sum of the claimant's weekly benefit amount multiplied by the average weekly duration of unemployment for the previous year as determined by the Department of Labor or the total benefits actually collected at the time of the request to the Board to determine the amount of the attorney's fee. The time limitations and procedures specifically provided in this subsection for objections to charged claimant representation fees shall not affect, stay or toll the time limitations otherwise provided in these regulations for the disposition of appeals by the Appeals Division. The Appeals Division's decision on claimant representation fees may be appealed in accordance with the same time limits and procedures set forth in these regulations for the adjudication of appeals.

- e. Representation by an attorney or authorized agent shall not relieve any party of the responsibility to present at a duly scheduled hearing testimony from all individuals with actual personal knowledge of the facts involved. A represented party may be deemed to be bound by the representation afforded that party by the representative during proceedings before the Appeals Division.
- f. In any proceeding wherein the Appeals Division determines that the eventual decision will potentially be of significant precedential value, the Appeals Division may, upon its own motion or upon written request, permit any person, organization or entity which the Appeals Division reasonably determines represents a constituency which would be significantly affected by such decision or which has specialized knowledge or expertise on the subject involved, to serve as an amicus curiae for purposes of advocating the interests of such constituency or availing the Appeals Division of its knowledge on the subject during such proceeding for such duration and under such terms as the Appeals Division may reasonably provide. Each such request should be filed by means of a typed or legibly printed document which should (1) be clearly entitled at the top center "Request for Leave to Intervene as Amicus Curiae"; (2) describe why the requesting person, organization or entity would be qualified to serve as such an amicus curiae, the constituency if any, which would be represented and, if applicable, why such constituency would not otherwise be adequately represented unless such request was granted; (3) describe why the decision eventually issued in such proceeding will allegedly be of significant precedential value and (4) otherwise follow the guidelines set forth in Section 31-237g-10(a) of these regulations. If the Appeals Division grants such a request, notice of that

decision will be issued in accordance with Section 31-327g-13 of these regulations and thereafter during the pendency of its authorized involvement such amicus curiae shall be entitled to the same notice due each party to such proceeding pursuant to these regulations including, but not limited to, Section 31-237g-10(a) and 31-237g-13. However, unless an amicus curiae becomes a representative of record for a party actually aggrieved by the eventual decision, such amicus curiae is without standing to exercise appeal rights with regard to such decision.

(Effective October 27, 1997)