

Sec. 31-237g-15. Appeal to the Referee: time and place for filing; jurisdiction of Referees

(Statutory reference: Secs. 31-241 and 31-237j)

- a. Except as otherwise provided by law, the Administrator's decision shall be final unless a party aggrieved by the decision files, within twenty-one days after the date such decision was mailed to such party's last-known address, an appeal to the Referee with an office of Employment Security, the Appeals Division or any similar employment security agency of any other state in which such party is located at the time of filing. The appeal rights of an employer shall be limited to the first notice such employer is given in connection with a claim which sets forth his appeal rights. Any appeal may be filed in person, by facsimile transmission (fax), by Internet or by mail but to be acceptable as a timely filed appeal it must actually be received at such office no later than the twenty-first (21) calendar day following the date on which the Administrator's determination was mailed, must bear a legible United States postal service postmark which indicates that within such twenty-one day period it was placed in the possession of the postal authorities for delivery to the appropriate office, or must be received by fax or by Internet as set forth in Section 31-237g-1(c) of these regulations. Posting dates attributable to private postage meters shall not be considered in determining the timeliness of appeals filed by mail. If said twenty-first (21) day falls on a day when the office in which the appeal was filed was not open for business, then such last day shall be extended to the next business day of such office. It is generally advisable, to the extent that it can be accomplished within the allotted twenty-one day period, to file such appeal with the specific Employment Security office which rendered the decision. Any appeal filed after the twenty-one day period has expired may be considered to be timely filed if the filing party shows good cause for the late filing.
- b. For purposes of this section, a party has good cause for failing to file an appeal within twenty-one (21) calendar days of the issuance of the Administrator's determination if a reasonably prudent individual under the same or similar circumstances would have been prevented from filing a timely appeal. In determining whether good cause has been shown, the Referee shall consider all relevant factors, including but not limited to:
 - i. The extent to which the party has demonstrated diligence in its previous dealings with Administrator and the Employment Security Appeals Division;
 - ii. Whether the party was represented;
 - iii. The degree of the party's familiarity with the procedures of the Appeals Division;
 - iv. Whether the party received timely and adequate notice of the need to act;
 - v. Administrative error by the Administrator or Employment Security Appeals Division; or the failure of the Administrator, the Appeals Division, or any other party to discharge its responsibilities;
 - vi. Factors outside the control of the party which prevented a timely action;
 - vii. The party's physical or mental impairment;
 - viii. Whether the party acted diligently in filing an appeal once the reason for the late filing no longer existed;

- ix. Where there is substantial prejudice to an adverse party which prevents such party from adequately presenting its case, the total length of time that the action was untimely;
 - x. Coercion or intimidation which prevented the party from promptly filing its appeal;
 - xi. Good faith error, provided that in determining whether good faith error constitutes good cause the Referee shall consider the extent of prejudice to any other party, any prior history of late filing due to such error, whether the appeal is excessively late, and whether the party otherwise acted with due diligence.
- c. The Referees shall have jurisdiction over appeals from all determinations made pursuant to chapter 567 of the Connecticut General Statutes, including appeals from determinations regarding employer tax liability, except those involving only a determination of the amount of contributions due made pursuant to Section 31-270 of the General Statutes, or pursuant to directives of the United States of America and the Secretary of Labor of the United States. Unless otherwise specifically provided by statute or regulation, the appeal period for all such determinations shall be as set forth in subsection (a) and (b) of this section.

(Effective October 27, 1997)