

## **Sec. 31-237g-22. Responsibility of party to present testimony and evidence**

- a. It is the responsibility of each party to present at the hearing before the Referee all witnesses, testimony, evidence and argument material to such party's contentions concerning the appeal. Testimony and evidence personally presented at the hearing by individuals with actual personal knowledge of the facts in question is preferred, provided the weight to be afforded such testimony and evidence shall be determined by the Referee with consideration to the circumstances of each appeal. Any party, who, without good cause, fails to present at the hearing all testimony, evidence and oral argument material to such party's contentions concerning the appeal may be deemed to have assented to the Referee's decision of the appeal solely on the basis of the credible testimony, evidence and oral argument presented at such hearing and the records already on file. The Appeals Division may refuse to provide, by reopening, remand or otherwise, a further hearing for purposes of presenting testimony, evidence or oral argument not presented at the Referee's hearing duly scheduled in any case wherein it is determined that, through the exercise of due diligence by the party involved, such testimony, evidence or argument could have been presented at such hearing and there was no good cause for such party's failure to do so.
- b. Immediately upon receipt of the written notice of a telephone hearing, it shall be the responsibility of each party to such telephone hearing, in addition to the other responsibilities applicable to such hearings, to:
  1. 1. pursuant to the provisions of Section 31-237g-10(a) of these regulations, mail directly to the Appeals Division office which issued the notice and to each other party all proposed documentary evidence or written materials which such party wishes to introduce during such hearing;
  2. 2. pursuant to Section 31-237g-17(b)(2) notify the Appeals Division if it intends to appear in person;
  3. 3. arrange to have all witnesses that such party intends to introduce at such hearing present at either (A) the Appeals Division office conducting the hearing or (B) the location where such party will be participating by telephone in the hearing, or (C) such location as the notice directs will be acceptable;
  4. 4. contact the Appeals Division office which issued the notice if such party is unable to satisfactorily arrange to have that party's witnesses at any of the locations specified in subsection (3) above.

(Effective October 27, 1997)