

Regulations of Connecticut State Agencies

TITLE 31. Labor

Agency

Department of Labor

Subject

Appeals and Hearing Procedures

Inclusive Sections

§§ 31-244-1—31-244-9a

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Appeals and Hearing Procedures

Sec. 31-244-1—31-244-17. Repealed

Repealed June 23, 1986.

Sec. 31-244-1a. Definitions

As used in sections 31-244-1a through 31-244-9a inclusive:

(a) “Administrator” means the Labor Commissioner of the State of Connecticut, whose mailing address is 200 Folly Brook Boulevard, Wethersfield, Connecticut 06109, or the Commissioner’s designated representative.

(b) “Benefits” means unemployment compensation payable to an individual with respect to such individual’s unemployment under Chapter 567 of the Connecticut General Statutes.

(c) “Claimant” means an individual who is filing or has filed a claim for benefits.

(d) “Predetermination hearing” means a hearing called by the Administrator, pursuant to Section 31-241 of the Connecticut General Statutes, for the purpose of finding facts necessary to make a determination of eligibility for benefits.

(e) “Rebuttal” means an opposing or explanatory statement by an individual in response to potentially adverse information or a contradictory statement.

(f) “SIDES” means the Unemployment Insurance (UI) State Information Data Exchange System.

(Effective July 1, 1992; Amended October 23, 1996; Amended April 4, 2017)

Sec. 31-244-2a. Predetermination hearings

The Administrator shall schedule a predetermination hearing in any instance in which

(a) an individual’s claim for benefits indicates that the individual’s reason for unemployment presents an issue of eligibility under any provision of Subsection (d) of Section 31-227 or Section 31-236 of the Connecticut General Statutes, or Section 31-235 of the Connecticut General Statutes if the Administrator determines that the issue of the individual’s availability for work relates to the circumstances of the individual’s separation, or

(b) the Administrator cannot reasonably determine from the individual’s claim or by contacting the separating employer by telephone at the time the claim is made that such individual’s reason for unemployment was lack of work or some other form of non-disqualifying involuntary termination.

(Effective July 1, 1992; Amended October 23, 1996; Amended April 4, 2017)

Sec. 31-244-3a. Notice of predetermination hearing

(a) . Predetermination hearings are conducted telephonically. However, the Administrator may prescribe an in-person hearing at his or her discretion, provided if an in-person hearing is requested by either party, the request may not be unreasonably denied by the Administrator. The Administrator shall allow the claimant to participate solely by submitting a statement when the claimant has a compelling personal reason that prevents

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the claimant's appearance in person or by telephone including but not limited to the claimant's return to employment.

(b) The Administrator shall promptly provide notice of the predetermination hearing to the individual and to the employer, through a mechanism specified by the Administrator, of the date, time and place, if applicable, of the predetermination hearing, as well as a brief statement of the reason for unemployment provided by the claimant to be adjudicated at such hearing.

(c) The hearing notice to the employer shall specify that the employer may elect to participate in a predetermination hearing by telephone or by submitting a response to the hearing notice, and that such response shall contain the employer's account of the circumstances surrounding the individual's separation. The Administrator may provide specific questions to be answered by the employer in the method prescribed by the Administrator. The notice shall specify a time during which the employer's designated representative should be available when telephone participation is elected.

(d) Where technologically feasible, the Administrator may authorize either party to participate in a predetermination hearing by other electronic means.

(e) The hearing notice shall inform the claimant and the employer of their rights in the predetermination hearing including:

- (1) the right to be represented by any person, including an attorney;
- (2) the right to present evidence, documents and witnesses; and
- (3) the right to cross-examine witnesses and parties, so long as the Administrator deems such cross-examination to be appropriate and relevant.

(f) The Administrator shall schedule each predetermination hearing no earlier than the tenth calendar day following the issuance of notice of such hearing.

(g) Where no Notice of Separation is provided to the Administrator, the Administrator shall provide the predetermination hearing notice to the most recent address of record provided by the employer to the Administrator's Employer Status Unit. The Administrator shall provide the notice of the predetermination hearing either to the employer's address that appears on the Notice of Separation (Form UC-61) or, if the employer participates electronically in SIDES, to the employer's most recent electronic address.

(Effective July 1, 1992; Amended October 23, 1996; Amended April 4, 2017)

Sec. 31-244-4a. Timeliness of an employer's response to notice of predetermination hearing or in response to Administrator's request for information on a claim

In order to be considered timely for purposes of Section 31-241 and Section 31-273(k) of the Connecticut General Statutes, an employer's response to the Administrator's notice of a predetermination hearing or request for information on a claim for unemployment compensation benefits must be actually received by mail, in person or by electronic means in the manner and within the time frame prescribed by the Administrator in the Notice of Hearing or request for information. Nothing in this section precludes consideration of a late response received before an eligibility determination is made, or subsequent to such

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determination in the Administrator's exercise of continuous jurisdiction under Section 31-243 of the Connecticut General Statutes. However, such consideration shall not relieve the employer of any charges imposed pursuant to Section 31-241 or 31-273(k) of the Connecticut General Statutes as a consequence of untimely response, unless good cause for such late participation is shown. For purposes of this section, "good cause" means (1) agency error, or (2) circumstances beyond the employer's or its agent's control which could not have been reasonably foreseen or prevented.

(Effective July 1, 1992; Amended October 23, 1996; Amended January 3, 2005; Amended May 12, 2014; Amended April 4, 2017)

Sec. 31-244-5a. Postponements

In order to insure timely determinations of eligibility for benefits, it shall be the general practice of the Administrator to deny postponement requests. The Administrator may grant a request for postponement in extraordinary circumstances where the rights of one or both parties would be substantially prejudiced by denying such a request and the effect of such denial could not be mitigated by the opportunity for submission of a statement or participation by telephone or other electronic means. The granting of any postponement request shall be at the sole discretion of the Administrator.

(Effective July 1, 1992; Amended October 23, 1996; Amended April 4, 2017)

Sec. 31-244-6a. Exemption of certain categories from statutory charging consequences for non-participation in the predetermination hearing (Repealed)

Repealed May 12, 2014.

(Effective July 1, 1992; Repealed May 12, 2014)

Sec. 31-244-7a. Determination of adequacy of the employer's response

(a) An employer's response to notice of a predetermination hearing must contain adequate information to be considered a timely response within the meaning of Section 31-241 of the Connecticut General Statutes. To be considered adequate, an employer's response must (1) specify the reason for the separation, and (2) answer, in good faith, the questions corresponding to the appropriate separation issue, either by completing the appropriate areas of the questionnaire provided to the employer with the predetermination hearing notice or by submitting relevant alternate documentation, or both. The Administrator shall determine whether an employer's response is adequate. So long as an employer substantially complies with subdivisions (1) and (2) of this subsection, the Administrator shall determine that an employer's response is adequate.

(b) An employer's response to a request by the Administrator for information with respect to a claim for unemployment compensation benefits, including, but not limited to, any requests for additional information, shall be considered an adequate response within the meaning of section 31-273(k) of the Connecticut General Statutes if the response is provided in the manner prescribed by the Administrator in the request, is timely and is

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intended in good faith to respond to the request for information in the manner prescribed in such request.

(Effective July 1, 1992; Amended May 12, 2014; Amended April 4, 2017)

Sec. 31-244-8a. Conduct of the predetermination hearing

(a) The Administrator will control and conduct the predetermination hearing informally through examination of the record and direct questioning as the Administrator determines necessary for a proper and complete decision.

(b) In conducting the hearing, the Administrator will not be bound by the ordinary common law or statutory rules of evidence or procedure.

(c) The issue(s) addressed at the predetermination hearing will be confined to the issue(s) listed on the hearing notice. A hearing will not be conducted regarding any other eligibility issue which is identified by the Administrator during the predetermination hearing unless the parties are afforded proper notice of such issue and hearing.

(d) An issue stated in terms of a voluntary leaving or a discharge shall generally be construed to be a single issue covering the separation from employment so that the record may be developed on either or both kinds of separation.

(e) The Administrator may limit or deny a party's right to cross-examination whenever the Administrator determines that such cross-examination is not producing or would not produce information useful or relevant to adjudication of the claim.

(f) The Administrator may limit or exclude from the record testimony, documents or other evidence which the Administrator determines to be incompetent, irrelevant, unduly repetitious or otherwise improper.

(g) The Administrator shall not permit any individual present at the predetermination hearing to engage in improper behavior or tactics which disrupt the fair, orderly, efficient and effective conduct of the hearing. The Administrator may, at the Administrator's own discretion, take any action the Administrator deems necessary to prevent or discontinue such behavior or tactics, including termination of the hearing.

(h) During a predetermination hearing, on the Administrator's own motion or on the motion of any interested party, and at the sole discretion of the Administrator, a continuance may be granted for good cause and the record kept open for a specified period of time.

(i) The Administrator shall contact by telephone any party who has provided timely notice of an intent to participate by telephone on the date of the scheduled hearing at the time specified on the hearing notice.

(j) The Administrator may develop and utilize any forms or questionnaires deemed necessary for use in the hearing process.

(k) The Administrator shall take all steps necessary to insure that any party, whether participating in person, in writing, by telephone or by other electronic means to a predetermination hearing, is afforded appropriate opportunity for rebuttal. However, where an employer's participation is limited to a statement and the employer has not indicated an interest in participating by telephone, the Administrator will attempt to contact the employer

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where there is a clear conflict between the factual accounts offered by each party and adjudication of the fact(s) in dispute is necessary to disposition of the claim. Where information resulting from such contact is provided by the employer when the claimant is no longer physically or telephonically present, the claimant shall be informed of the information provided by the employer. The claimant shall be provided an appropriate opportunity for rebuttal of any potentially disqualifying information acquired as a result of such contact, regardless of when such information was provided.

(l) The Administrator shall use best efforts to accurately summarize and record in writing the relevant statements of both parties and any witnesses in a predetermination hearing and shall further use best efforts to verify that the statement accurately reflects the parties' testimony.

(m) Where either party makes a request, the Administrator shall provide within a reasonable time period, a copy of any adjudicative report created by the Administrator during a predetermination hearing.

(Effective July 1, 1992; Amended October 23, 1996; Amended April 4, 2017)

Sec. 31-244-9a. Employer's appeal of charges resulting from its nonparticipation in the predetermination hearing.

The issue of an employer's non-participation in a predetermination hearing may not be the subject of an appeal to an Employment Security Appeals Referee until the effect of such non-participation is reflected in (1) a statement of quarterly charges (Form UC-54Q) in the case of a contributing employer, (2) in the case of a reimbursing employer, a monthly billing statement, or (3) in the case of an out-of-state employer, first notification to the employer from the Administrator. The employer may appeal its assessment of charges resulting from its non-participation in the predetermination hearing upon receipt of the first statement of quarterly or monthly charges which includes charges resulting from the employer's non-participation at the predetermination hearing. Such statement of quarterly or monthly charges shall be the only determination of the Administrator through which the issue of nonparticipation may be appealed. A contributing employer's appeal from this determination must be made pursuant to the provisions of Section 31-225a(h)(3) of the Connecticut General Statutes. A reimbursing employer's appeal from this determination shall be made pursuant to the provisions of Section 31-225(g)(2)(D) of the Connecticut General Statutes.

(Effective July 1, 1992; Amended January 3, 2005; Amended May 12, 2014)