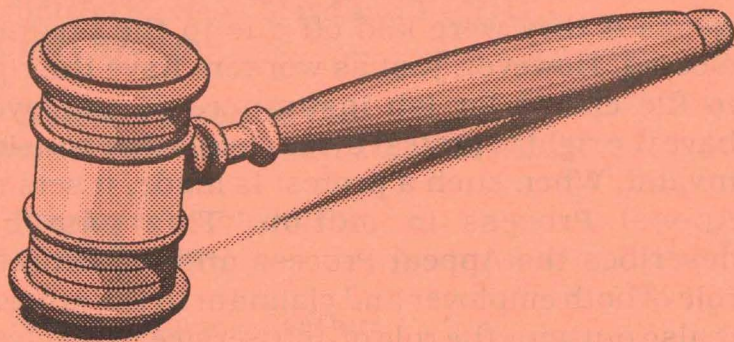


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Job _____ Insurance Contested _____ Cases



and the
**Appeal
Process**



Job insurance is a program designed to protect workers who lose their jobs through no fault of their own and who are able, available and actively looking for work.

Eligible jobless workers can receive job insurance benefits for up to 26 weeks or for 39 weeks if they were laid off due to the business closing. However, just as workers have the right to file claims for job insurance, so employers have the right to protest those claims they consider invalid. When such a protest is made, it sets the Appeal Process in motion. This pamphlet describes the Appeal Process and explains the role of both employer and claimant in the process. It also outlines the role of Job Service in resolving contested claims.

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Job Service Appeals Section	
Phone Number	515-281-3747 1-800-562-4692
Employment Appeal Board	
Phone Number	515-281-3638
Job Service of Iowa offices are listed on the back cover.	

Fact-Finding Interviews

If an employer protests a worker's job insurance claim or there is some question about the claimant's eligibility, Job Service will arrange an informal proceeding, called a fact-finding interview to determine the claimant's eligibility for benefits. The fact-finding interview may be conducted by telephone or held in a Job Service office. A telephone interview will be scheduled if both worker and employer request one. However, if either states a preference for an in-office interview, it may be scheduled as a seated interview. In such cases, the person who requested the in-office interview may be required to travel to the Job Service office nearest the other participant.

Both the claimant and the employer are notified of the date and time of the fact-finding interview. If either is unable to participate, the Job Service office should be notified immediately. Upon request, Job Service staff persons will assist the claimant or employer in submitting evidence in writing in lieu of participation.

It is essential for those involved in the interview to be on time. As a result of a court decision, Job Service is prohibited from using any testimony or information received after the scheduled date and time of the interview. The court decision also prohibits Job Service from using written evidence for the fact-finding interview which does not arrive before the scheduled date and time. Any such late written evidence can only be retained for use in the event an appeal of the Job Service representative's decision is filed following the fact-finding interview.

A fact-finding interview is an informal meeting between the claimant, the employer and the Job Service representative. The representative asks questions of each party. The claimant

and employer are each given an opportunity to explain their position on the issue and to present evidence and witnesses. If witnesses are unable to attend, they can write and sign statements which can be presented to the Job Service representative prior to the telephone interview or at the time of the in-office interview. The employer and claimant also have the right to question each other's witnesses and obtain copies of any documents in the file.

Either party may tape record the proceedings but must furnish the equipment and pay any expense. Either party may also bring a legal representative or lawyer but must pay any costs for the legal representative's services.

Job Service urges both claimants and employers to be prepared before they come to the fact-finding interview. Copies of the Iowa Employment Security Law and the Job Service Administrative Rules are available for review by any interested person. In addition, local Job Service office employees can explain which laws and rules apply.

Copies of the Job Service representative's decisions are mailed within a few days after the interview. Decisions contain full instructions for appealing. Any appeal from this decision must be postmarked within 10 calendar days from the date of mailing shown on the representative's decision or received in the Appeals Section within 10 calendar days from the date of mailing.

First Level Appeal: Administrative Law Judge

When a Job Service representative's decision is appealed by either the claimant or the employer, Job Service schedules a formal hearing with an Administrative Law Judge. Most Job Service Administrative Law Judges are lawyers. Either party has the right to request a telephone hearing or an in-person hearing. In-person hearings are held at the Job Service office nearest the location of both parties. If a party is in an area different from that of the other party, the party requesting an in-person hearing must travel to the location of the other party. Travel expenses will not be paid by Job Service.

Both parties are notified of the time and place of the hearing and the issues to be decided at the hearing. Since additional evidence may be submitted at the first level appeal hearing, it is important for both participants to attend even though they may have submitted evidence at the fact-finding interview. Either party may choose to be represented by a lawyer but at that party's own expense.

The Administrative Law Judge reviews the contents of the file and examines all evidence presented during the hearing and then makes an impartial decision. Copies of the decision are sent to both parties. Again, either the employer or the claimant may appeal this decision to the second level of appeal, the Employment Appeal Board. This appeal must be postmarked within 15 calendar days from the mailing date of the Administrative Law Judge's decision.

Second Level of Appeal: Employment Appeal Board

Members of the Employment Appeal Board are appointed by the Governor to equally represent labor, employers and the general public. The Board is in the Iowa Department of Inspections and Appeals, Lucas State Office Building.

Except in unusual circumstances, the Employment Appeal Board does not hold hearings. The three-member board decides each case by reviewing all of the evidence which has been presented. The Board may affirm or reverse the Administrative Law Judge's decision or remand the case back to the Administrative Law Judge for further review or a new hearing and a second decision. Copies of the decision are sent to the claimant and employer.

The employer and the claimant each have the right to request a rehearing before the Appeal Board. This request must be postmarked within 20 calendar days from the mailing date of the Appeal Board's decision. If either party elects to file an application for a rehearing, copies of the application will be sent to all those involved in the case. Upon receiving the application for rehearing, and if the Board does elect to rehear the case, a second review of the case is conducted and a second decision is made.

The Employment Appeal Board is the final administrative appeal level within the job insurance program.

Other Levels of Appeal: Judicial Review, State and Federal Court Systems

Judicial Review—As an alternative to requesting a rehearing by the Appeal Board, either the employer or the claimant has the option of filing for judicial review in District Court. Such an appeal or petition must be filed within 30 days after the Appeal Board decision or within 30 days after a denial or a decision is issued by the Appeal Board concerning a request for a rehearing. Petitions for judicial review are given precedence over other civil cases except cases arising under the workers' compensation law.

State and Federal Court Systems—When all levels of appeal within the job insurance program have been exhausted, claimants and employers may pursue their cases through either the State Court System or the Federal Court System if a federal question is involved. Petitioners who elect to appeal through these courts must do so at their own expense.

The Claimant's Role in the Appeal Process

The worker whose claim is disputed by an employer or whose eligibility is in question for any reason has a vital role in the Appeal Process. To protect his or her interests, the claimant should read all notices and decisions carefully. It is especially important to follow the directions for filing appeals so that any appeal is filed within the legal time limits.

Once a decision is made in favor of the claimant, benefits start immediately, even if the employer appeals the decision. However, if the decision awarding benefits to the claimant is later reversed on appeal, the claimant may be required to repay the benefits already received.

Even though a decision denies benefits, a claimant who appeals that decision should continue filing the claim for benefits forms (60-0151). The claimant has the burden of proof on benefit eligibility conditions such as able to work, available for work, work search, second benefit year requalifications, voluntary quit requalification, etc.

The Employer's Role in the Appeal Process

The importance of the employer's role in the Appeal Process is equal to that of the claimant. But the employer has the burden of proof on disqualifications involving discharges or separations, job refusal, labor disputes, disqualifying income, vacation pay, etc. Employers should read notices and decisions carefully and file the necessary forms and appeals within the time limits allowed.

Employers or their representatives should attend and participate in all hearings, if at all possible. Employers should also be sure that anyone who was directly involved or who witnessed a specific incident or incidents that led to a claimant's separation is in attendance at any hearings to give testimony. Hearsay testimony can be accepted as evidence but eyewitness testimony carries more weight. Employers should be prepared to present pertinent documents such as time cards, payroll records, etc.

Should any appeal bring a decision in favor of the employer, any job insurance benefits paid to the claimant will not be charged against the employer's account. (This does not always apply in the case of reimbursable employers.)

Under the laws that govern Iowa's job insurance program, employers and claimants have equal rights every step of the way. Jobless workers have the right to file claims for job insurance. Employers have the right to protest those claims they consider invalid. Workers and employers each have the right to appeal any decision. The rights of workers and employers are comparable and equal, giving both a fair opportunity to present their cases.

This pamphlet is designed to help employers and claimants understand their rights and responsibilities in the job insurance appeal process. It explains the process in detail and outlines the role of Job Service in resolving contested cases as well as the role of higher levels of review and decision-making.

Questions about the information in this pamphlet can be answered by calling JOB-IOWA (1-800-562-4692).





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For information or guidance in the Appeal Process, call the following numbers:

**Job Service Appeals Section 515-281-3747 or
1-800-562-4692**

Employment Appeal Board 515-281-3638

Assistance can also be obtained from any of the following Job Service offices:

Algona	Davenport	Jefferson	Perry
Ames	Decorah	Keokuk	Pocahontas
Atlantic	Denison	Knoxville	Red Oak
Boone	Des Moines	LeMars	Sheldon
Burlington	Dubuque	Manchester	Shenandoah
Carroll	Emmetsburg	Maquoketa	Sioux Center
Cedar Rapids	Estherville	Marshalltown	Sioux City
Centerville	Fairfield	Mason City	Spencer
Chariton	Forest City	Missouri Valley	Storm Lake
Charles City	Fort Dodge	Monticello	Washington
Cherokee	Fort Madison	Mount Pleasant	Waterloo East
Clarinda	Glenwood	Muscatine	Waterloo West
Clarion	Grinnell	New Hampton	Waverly
Clinton	Harlan	Newton	Webster City
Clive	Humboldt	Oelwein	
Corning	Independence	Osceola	
Council Bluffs	Iowa City	Oskaloosa	
Creston	Iowa Falls	Ottumwa	



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