

Information for an Appeal Hearing



**DIVISION OF
EMPLOYMENT
SECURITY**

PURPOSE

The purpose of a hearing is to review the determination made by the Division of Employment Security.

IMPORTANCE

The hearing may be the ONLY chance you get to present evidence.

A referee will hold the hearing and make a decision about the determination using only the evidence presented at the hearing. For that reason, the referee cannot discuss the facts of the case with you before or after the hearing.

ADDRESSES

It is your job to keep your address current with the Appeals Section. If your address is not kept current, you may not receive all needed paperwork.

ATTENDANCE

If you filed the appeal and do not attend the hearing, your appeal will be dismissed and the determination will stay the same.

If the other party filed the appeal and you do not attend the hearing, your evidence will not be used to make the decision.

HEARING NOTICE

A hearing notice is mailed to each party at least seven days before the hearing. **READ THE NOTICE CAREFULLY** for more instructions. A copy of the appeal packet (which will be used as an exhibit

in the hearing) will be mailed with the hearing notice. You must have the appeal packet with you during the hearing.

PREPARATION

Start preparing for the hearing NOW by arranging for witnesses and gathering evidence to support your case. Persons with firsthand facts of the case should testify. Do not rely on word of mouth to prove a fact. Witnesses do not need to repeat the same testimony.

SUBPOENAS

You will need to ask for a subpoena for any witness/party who refuses to testify or hand over documents voluntarily. You must act quickly once you receive your hearing notice.

- Send a request for a subpoena in writing and include the following:
 1. Claimant's Social Security Number and the Appeal Number
 2. Witness name(s) or a list of documents needed
 3. Address where the subpoena will be delivered
 4. Statement of what the witness' testimony or documents will prove
 5. Statement that you have asked for testimony or documents and have been refused
- Mail or fax your subpoena request to the referee at the address or fax number shown in the lower left hand corner of your hearing notice

- Allow enough time to have the subpoena prepared and sent to you
- Deliver the subpoena to the witness/party once you receive it

REPRESENTATION

A claimant may represent himself/herself or use an agent (an unpaid person the claimant chooses to act on his/her behalf). If you choose to use an agent, you and the agent need to put in writing that the agent accepts responsibility for representing you. This document should include both of your signatures, the date signed, and the agent's address. You can either mail or fax it in.

An officer or full-time manager/supervisor who is paid by the employer may represent the employer. An employer who is an individual may represent himself/herself.

A Missouri licensed attorney may represent you. Your attorney must send in an "Entry of Appearance" letter to the Appeals Section.

The Appeals Section cannot and will not tell you if an attorney should be used.

POSTPONEMENTS

If it is necessary to postpone the hearing, you must contact the referee by phone or fax as soon as possible. Explain in detail why you are asking for a postponement. The Appeals Tribunal will tell the parties if a hearing has been postponed.

GENERAL PROCEDURES

Every hearing is recorded. At the beginning of the hearing, the referee will explain the issue and hearing process.

All testimony is given under oath. The referee may help both the claimant and the employer present their cases. The referee may question anyone who testifies. The claimant or the claimant's representative may question the employer and/or the employer's witness(es). The employer or its representative may question the claimant and/or the claimant's witness(es). At the end of the hearing, the referee will ask the parties if they have anything to add.

TELEPHONE HEARINGS

If you do not have a phone to use, you may use a phone at a Missouri Job Center. Witnesses are not allowed to be together while testifying.

At the time of your hearing, you must call the toll-free number on the "Notice of Telephone Hearing" that will be mailed to you. Listen for the instructions to enter the access code listed on the notice. Wait for the referee (host) to join and begin the hearing.

When the referee asks, give the full names and phone numbers of witnesses who have agreed to testify. You must tell witnesses to wait by their phones until they are called to testify. Most hearings last 45 minutes. Witnesses must be available during the entire hearing. Testimony cannot be taken from a witness who does

not answer the phone when the referee calls.

IN-PERSON/SPLIT HEARINGS

A party has the right to an in-person hearing. In-person hearings require parties and witnesses to travel to one of the four hearing locations (Jefferson City, Kansas City, Springfield, or St. Louis). Granting a request for an in-person hearing does not mean the other party will always have to appear in person. The other party may be given the option to participate in the hearing by phone; this is known as a split hearing.

DO NOT bring young children to the hearing with you.

TELEPHONE/SPLIT HEARING EVIDENCE

If you have evidence, you **MUST** mail, fax, or deliver one copy of the evidence to the other party and one copy to the referee early enough to be received before the hearing. If you send documents, include the claimant's Social Security Number and the Appeal Number.

Postponements will **NOT** be granted because evidence was not received in time.

IN-PERSON HEARING EVIDENCE

If you have evidence, you **MUST** bring copies of the evidence to the hearing for the referee and the other party.

AUDIO/VIDEO EVIDENCE

Contact the Appeals Section as soon as possible for more instructions if you plan to use audio or video evidence at a hearing. Audio or video evidence can only be used at an in-person hearing.

AFTER THE HEARING

The referee's decision will be mailed to each party.

If you disagree with the referee's decision, you may file an appeal to the Labor and Industrial Relations Commission. You will have 30 days from the date of the referee's decision to file an appeal.

NOTE TO CLAIMANTS

If you are not working full time, keep filing your weekly request for payment during the appeal period.

If the referee reverses a determination that allowed you to receive unemployment payments, it will cause your claim to be overpaid.

ADDITIONAL INFORMATION

If you send documents, include the claimant's Social Security Number and the Appeal Number.

If you have questions, contact the Appeals Section at 573-751-3913. More information can be found at www.labor.mo.gov/DES/Appeals.

Appeals Section
Division of Employment Security
P.O. Box 59
Jefferson City, MO 65104-0059
Fax: 573-751-5620

SPECIAL NEEDS: If you have special needs addressed by the Americans with Disabilities Act, please notify the Appeals Section as soon as you know an appeal has been filed.

INTERPRETER: Notify the Appeals Section if you need an interpreter for your hearing.

IMPORTANT: *If needed, call 573-751-3913 for assistance in the translation and understanding of the information in this document.*

¡IMPORTANTE! *Si es necesario, llame al 573-751-3913 para asistencia en la traducción y entendimiento de la información en este documento.*

Missouri Division of Employment Security is an equal opportunity employer/program.

Auxiliary aids and services are available upon request to individuals with disabilities.

TDD/TTY: 800-735-2966 Relay Missouri: 711

**MISSOURI
DEPARTMENT OF LABOR
& INDUSTRIAL RELATIONS**