

<h1>Regulatory Analysis Form</h1> <p>(Completed by Promulgating Agency)</p> <p>(All Comments submitted on this regulation will appear on IRRC's website)</p>		<p>INDEPENDENT REGULATORY REVIEW COMMISSION</p> <p>RECEIVED</p> <p>Independent Regulatory Review Commission April 16, 2025</p> <p>IRRC Number: 3433</p>
<p>(1) Agency Department of Labor and Industry (L&I) Unemployment Compensation Board of Review (Board)</p>		
<p>(2) Agency Number: 12 Identification Number: 12-120</p>		
<p>(3) PA Code Cite: 34 PA Code Chapter 101</p>		
<p>(4) Short Title: General Requirements</p>		
<p>(5) Agency Contacts (List Telephone Number and Email Address): Primary Contact: Melissa Trambley UC Appeals System Administrator, UC Board of Review – 717-787-5122 RA-LIUCBR-REGCOMM@pa.gov Secondary Contact: Janet Tarczy, Deputy Chief Counsel, OGC – 717-787-4186 – jtarczy@pa.gov</p>		
<p>(6) Type of Rulemaking (check applicable box):</p> <p>X <input checked="" type="checkbox"/> Proposed Regulation <input type="checkbox"/> Final Regulation <input type="checkbox"/> Final Omitted Regulation</p>	<p><input type="checkbox"/> Emergency Certification Regulation; <input type="checkbox"/> Certification by the Governor <input type="checkbox"/> Certification by the Attorney General</p>	
<p>(7) Briefly explain the regulation in clear and nontechnical language. (100 words or less)</p> <p>This regulation sets forth the rules of practice and procedure and governs proceedings before the referees and Board, including the method, content, and time requirements for the filing appeals and requests, submission of evidence and access to records, notifications of hearings and decisions, and participation in hearings for first and second level appeals on unemployment compensation claims.</p> <p>This proposed rulemaking updates and clarifies the procedures for filing appeals and conducting hearings, updates names and terminology, allows for electronic filings and notifications and use of video technology, and eases the circumstances under which remote hearings are permitted.</p>		

(8) State the statutory authority for the regulation. Include specific statutory citation.

This proposed rulemaking is issued under the authority provided in section 203(d) of the Unemployment Compensation (UC) Law (43 P.S. § 763(d)), which authorizes the Board to adopt, amend or rescind rules of procedure related to appeals. Section 506 of the Administrative Code of 1929 (71 P.S. § 186) provides authority for the promulgation of rules and regulations for departmental administrative boards and stating: “[T]he several departmental administrative boards and commissions, are hereby empowered to prescribe rules and regulations, not inconsistent with law, for the government of their respective departments, boards, or commissions . . . [and] the distribution and performance of their business. . . .”

(9) Is the regulation mandated by any federal or state law or court order, or federal regulation? Are there any relevant state or federal court decisions? If yes, cite the specific law, case or regulation as well as, any deadlines for action.

These proposed amendments to the regulation are not mandated by any federal or state law, court order or federal regulation; however, the Board seeks to update the regulation to be consistent with prior amendments to the UC Law. This proposed rulemaking amends Chapter 101 to be consistent with section 504 of the UC Law, 43 P.S. § 824, as amended on November 3, 2016, by P.L. 1100, No. 144, and section 505 of the UC Law, 43 P.S. § 825, as amended June 20, 2011, by P.L. 16, No. 6. This proposed rulemaking is also responsive to the House Labor and Industry Committee’s request that IRRRC review outdated regulations, including Chapter 101, asserting the Board never promulgated updated rules to comply with Act 6 of 2011.

(10) State why the regulation is needed. Explain the compelling public interest that justifies the regulation. Describe who will benefit from the regulation. Quantify the benefits as completely as possible and approximate the number of people who will benefit.

This proposed rulemaking is necessary to make Chapter 101 consistent with statutory amendments passed by the General Assembly in 2011 and 2016, as discussed above, and to better coordinate procedural requirements due to technological changes resulting from L&I’s implementation of the PA UC Claims System. Also, the current regulation has outdated terminology, requires updating to address existing and developing technology, and requires clarification to conform with current procedures. Lastly, there is significant public interest in easing the circumstances under which a worker’s or business’s request to participate in a hearing by remote means is permissible, and cost savings and improved efficiency by enabling the tribunal to schedule and conduct hearings on its own motion for participation by remote means in certain situations. There is no negative financial impact on the regulated community. To the contrary, there is potential for significant positive financial impact for all parties and their representatives to UC appeals resulting from the option to attend hearings remotely, the ability to communicate by electronic means, and the potential reduction in the number of further appeals and Board remand hearings. Any perceived adverse effect on the quality of hearings resulting from the increase in the use of remote hearings is mitigated by allowing any party, in most circumstances, to appear at a hearing in-person if the party so desires and is far outweighed by the positive financial impact for all parties and representatives to an appeal hearing. In 2023 and 2024, the Board decided over 100,000 appeals on claims for UC benefits and most involved a worker and an employer, some of which were represented by legal counsel or other representatives. All

parties and representatives, approximately 200,000 individuals per year, will benefit from these proposed amendments to the regulation.

(11) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulations.

No, none of these proposed amendments are more stringent than federal standards.

(12) How does this regulation compare with those of the other states? How will this affect Pennsylvania's ability to compete with other states?

This proposed rulemaking will enhance customer service through improved communications, circulation of notices and evidence, and accessibility to participate in hearings. These proposed amendments will not have any negative impact on parties to UC appeals in PA as compared to other states. Rather, it will amend PA regulations to utilize current technology and remove barriers to attending appeal hearings while mitigating any potential adverse impact on the expansion and quality of remote hearings as compared to in-person hearings.

To determine how some of PA's UC appeal processes and procedures compare with other states, the Board conducted a survey with other states in June 2023. The Board received responses from 27 states (including PA) and one territory (Virgin Islands), hereafter referred to as 28 states, and made the following observations:

1. PA is the only state among the 28 states that responded to indicate that it conducts all hearings in-person unless a remote hearing is requested and approved.
 - a. 25 states regularly held at least 95% of their hearings remotely.
 - b. PA had the lowest percentage of hearings held remotely at 19.5%.
 - c. 15 of the 28 states do not offer in-person hearings or only offer an in-person hearing for very limited exceptions such as to accommodate an individual with a disability. An additional 11 of the remaining 13 states conduct all hearings remotely unless an in-person hearing is requested and approved. One state conducts in-person hearings for fraud and separation issues.
 - d. Nine of the 28 states had begun the use of video hearings or have begun planning for the use of video hearings.
 - e. The amendments to Subchapter E in this proposed rulemaking expand the use of remote hearings by eliminating the current compelling reason requirement for a party to participate in a hearing by remote means, are responsive to a majority of stakeholder feedback, and improves the Board's participation requirements by providing parties a choice whether to appear at a hearing in-person or by remote means, with few exceptions. While parties will have the option to participate in a hearing remotely, the accessibility to an in-person hearing in PA will remain better than all other states in the survey.
2. The manner in which PA gathers evidence from the UC claims office for an appeal hearing is consistent with most other states.
 - a. PA is one of 25 states in which the UC claims office or the appeals office is responsible to gather the documents on which the UC claims office based their determination and to place the documents into the appeal record.

- b. In only three states, the documents are not entered into the appeal record by the UC claims office or the appeals office; the parties are required to provide all evidence to the appeals office.
- c. The addition of a definition of “agency record” and “appeal record” to § 101.2 and amendments to §§ 101.81(d) and 101.130(d), in this proposed rulemaking will continue to require the UC Service Center to gather the evidence on which the determination of the UC claims office was based while clarifying the documents required for the appeal record. This will improve the contents of the appeal record as requested by both labor and business stakeholders.

3. In PA, the amount of time of advance notice of a hearing provided by the tribunal to parties is consistent with other states.

- a. The amendment to §§ 101.85 and 101.105 in this proposed rulemaking improves the advance notice requirements that relate to in-person hearings as it increases the advance notice from 7 to 10 days. An increase to 14 days was requested by certain stakeholders and was considered by the Board; however, the increase was limited to 10 days because an increase to 14 days would affect the Board’s ability to meet federal timeliness performance standards. Although this proposed rulemaking did not increase the advance notice to 14 days, the Board is committed to its customer service and does provide at least 14 days advance notice of a hearing when possible and gives consideration to requests for postponement where a party does not receive a hearing notice with sufficient advance notice to retain counsel or otherwise prepare for a hearing.
- b. This proposed rulemaking does not change the time requirement for the tribunal’s advance notice of a hearing with participation by remote means. The regulation will continue to require the tribunal to issue hearing notices at least 14 days in advance of a remote hearing.

4. PA is one of the 22 states that regularly provide evidence in the appeal record to the parties by USPS mail or by electronic delivery prior to the conduct of a hearing at which a party is participating remotely.

- a. Six of 28 states require parties to view the evidence online, to request delivery of evidence, or to submit all evidence to the tribunal, and/or exchange all evidence with the opposing party.
- b. This proposed rulemaking improves the circulation of evidence as it updates §§ 101.130(a) and 101.130(d) of the regulation to specifically allow electronic delivery of the hearing notice and evidence in addition to USPS delivery, thereby using functionality of the PA UC Claims System as requested by stakeholders.

5. PA is currently among six of 28 states in which the appeals adjudicator issues a decision based on the merits of the case on all issues of law under appeal in cases where the appellant does not appear for the hearing.

- a. In 22 states, when the appellant does not appear for a hearing, the appeal is generally dismissed or otherwise disposed with an order.
- b. The amendment to § 101.51(a) of this proposed rulemaking places PA with the large majority of states which allow for the dismissal of an appeal in cases where the appellant does not appear and improves the process by relieving the respondent of the burden to present their testimony and evidence in a case in which they previously prevailed and are not aggrieved, with few exceptions. This change was requested by both labor and business stakeholders.

6. In addition to the survey results, the Board reviewed regulations of some other states and prepared proposed amendments which are comparable or derived from those states' regulations. For example:

- a. The language for the definition of "agency record" and the definition of "electronically stored records," as used in § 101.2, were derived from Maryland regulation.
- b. The addition of a provision for decorum at a hearing in § 101.21 was derived from Massachusetts, New Hampshire, and Georgia regulations.
- c. The dismissal of an appeal for appellate non-appearance and amount of the time period of ten minutes for the failure of a party to appear for a hearing, or absence of a party during the proceeding as used in §§ 101.51 and 101.131(j)(3), were derived from Maryland regulation.
- d. The self-authentication of UC Service Center records as used in §101.54 was derived from Maryland regulation.
- e. The inclusion of regulation for post-decision changes, as used in §§ 101.91 and 101.113, was derived from Wisconsin regulation.

(13) Will the regulation affect any other regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

These proposed amendments to Chapter 101 will not affect other existing or proposed regulations of the promulgating agency or other state agencies.

(14) Describe the communications with and solicitation of input from the public, any advisory council/group, small businesses and groups representing small businesses in the development and drafting of the regulation. List the specific persons and/or groups who were involved. ("Small business" is defined in Section 3 of the Regulatory Review Act, Act 76 of 2012.)

The Unemployment Compensation Advisory Council (Advisory Council) was convened in May 2022 under section 204.1 of the UC Law. As required by section 204.1, the Advisory Council consisted of 19 members and included designees from the majority and minority chairs of the PA House of Representatives and Senate, as well as other stakeholders from both labor and business organizations. Department of Labor and Industry Executive Deputy Secretary William Trusky served as chairman. The Board informed the Advisory Council that it had initiated a proposal to amend its regulations. At its meeting on November 17, 2022, the Advisory Council suggested that the Board continue to prepare a proposal to amend its regulations.

The Board engaged in a comprehensive effort to solicit verbal and written comments from a cross-section of interested stakeholders both before and after preparing a draft of the proposal to amend Chapter 101, as indicated below.

On January 3, 2023, the Board conducted outreach to the 19 members of the Advisory Council, 10 additional stakeholders balanced among labor and business organizations, and a representative from the disability advocacy community, to provide written comments for the Board to consider during the development of a proposal to amend. Comments were due by February 1, 2023. A written response was received from the following 12 stakeholders:

<u>Stakeholder Name</u>	<u>Group or Employer Affiliation</u>
Barney Oursler	Mon Valley Unemployed Committee
Gina Lombardi	Liberty Lutheran

Donald Kaminski	Community College of Allegheny County
Irwin Aronson	Willig, Williams, & Davidson
Gregory Moreland	National Federation of Independent Business
Jim Dunn	Dunn Corporate Resources, LLC
John Scarpato	PA House of Representatives
Rep. Bryan Cutler	PA House of Representatives
John Pichola	UC Solutions Group
Geoff Moomaw	Interstate Tax Service, Inc.
Sharon Dietrich	Community Legal Services, Inc.
Julia Simon-Mishel	Philadelphia Legal Assistance

On February 24, 2023, the Board conducted an in-person roundtable session with Julia Simon-Mishel of Philadelphia Legal Assistance, Sharon Dietrich of Community Legal Services, Geoffrey Moomaw of Interstate Tax Services Inc., and Ed Dunn and Jim Dunn of Dunn Corporation, to facilitate a solution-based discussion from the labor and business perspectives regarding amendments to Chapter 101.

Subsequently, the Board held listening sessions at several locations throughout the state to receive additional comments from labor and business stakeholders regarding amendments to Chapter 101. The Board invited approximately 1300 stakeholders from: (1) Members of the Advisory Council, (2) claimant attorneys and union representatives who attended four or more hearings since June 2021, and (3) employer attorneys and tax consultants who attended four or more hearings since June 2021, (4) labor attorneys from a list provided by Philadelphia Legal Assistance, and (5) UC tax consultants from list provided by Office of UC Tax Services. The Board conducted the listening sessions from June 2023 to August 2023, as follows:

- Each of the approximately 1300 stakeholders were sent an email invitation to attend a listening session at one of six locations, Scranton, Allentown, Harrisburg, Erie, Pittsburgh or Philadelphia.
- The Board received responses from 148 stakeholders to register for a listening session.
- Due to the low response for the Erie listening session and additional requests for a virtual session, the Erie stakeholders and other stakeholders who requested a virtual session were invited to a virtual session.
- A total of 58 stakeholders attended at least one listening session, including independent hearing representatives, representatives from Pennsylvania State Education Association, United Steel Workers, Philadelphia Legal Assistance, North Penn Legal Services, Legal Aid of Southeastern PA, Mon Valley Unemployed Committee, Interstate Tax Service, Dunn Corporation, and the PA Senate.
- Following the listening sessions, the Board invited stakeholders to submit written comments via email on or before August 10, 2023.
- The Board received 36 emails providing comments from stakeholders, including the business community and claimant representatives.
- The Board also held virtual listening sessions with internal stakeholders, including union stewards from AFSCME and SEIU 668, a staff attorney from SEIU 668, and senior employees from each UC referee office in the job classifications of UC Appeals Referee, Clerical Supervisor and Clerical Assistant. The Board advised referees and clerical workers to discuss

the session with colleagues and to provide any written comments on or before September 5, 2023.

- Two Appeals Referees provided written comments.

The Board also consulted L&I's Office of UC Service Centers and Office of UC Benefits Policy to ensure implementation of the regulation was feasible, and L&I's Bureau of Workers Compensation regarding hearing practices and procedures.

The Board prepared a proposal to amend Chapter 101, and on January 26, 2024, the Board emailed a courtesy draft of the proposal to 70 stakeholders who attended a listening session or who provided written comments and to AFSCME and SEIU 668 labor union representatives, with an opportunity for written comments due on February 26, 2024. L&I's legislative director also emailed the courtesy draft to the executive directors of the Labor and Industry Committee of the Senate and to the executive directors of the Labor and Industry Committee of the House of Representatives and provided the same opportunity for comment with a due date of February 26, 2024.

The Board received comments on the courtesy draft from the following:

Stakeholder Name

Barney Oursler
Julia Simon-Mishel
David Huang
Mallory Kennedy
Alex Halper
Geoff Moomaw
Gregory Moreland
Patricia McCorkel
Michael Simon
Deborah Gearhart

Group or Employer Affiliation

Mon Valley Unemployed Committee
Philadelphia Legal Assistance
Community Legal Services
SEIU 668
PA Chamber of Commerce
Interstate Tax Service Inc
National Federation of Independent Business
Hershey Entertainment and Resorts
Attorney, MDSimon LTD.
Attorney, Krevsky Bowser Law Firm

The Board reviewed and considered the comments during the process to finalize this proposed rulemaking and revised this proposed rulemaking where appropriate.

(15) Identify the types and number of persons, businesses, small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012) and organizations which will be affected by the regulation. How are they affected?

All parties and representatives to a UC appeal will be required to comply with the amended regulation. While the number of appeals will vary each year, in 2023 and 2024, approximately 100,000 unemployed workers, including workers with disabilities and language barriers, and 100,000 businesses, including small businesses, who were parties to an appeal would have been affected by these proposed amendments to the regulation.

This proposed rulemaking will have a positive impact on those individuals affected by the regulation. These workers and businesses, as well as their legal and non-legal representatives, will experience improvements in service from the Board. For example, these proposed amendments clarify the content of notices and records and improve the delivery of these notices and records by adding electronic transmission while maintaining USPS delivery of paper copies as an option for those individuals that lack internet or technological knowledge or who simply prefer USPS mail and/or hard

copies of documents. These proposed amendments also clarify, add or increase time periods to provide additional advance notice and flexibility to the parties and their representatives. Also, changes are made to reduce identity theft for workers and fraud in the UC appeal process.

The proposed amendments that have the most impact are those that expand the use of remote hearings. The expansion involves three main elements: (1) the authority for the tribunal to schedule remote hearings on its own motion in limited circumstances, (2) removal of the requirement for a party to have a compelling reason for approval of its request to participate in a hearing remotely, and (3) the addition of the use of video to enhance remote hearings.

This proposed rulemaking expands the Board's authority to schedule remote hearings on its own motion when situations arise that may affect the health and safety of the tribunal or the participants, and to provide a timely hearing when a compelling workload or staffing situation exists in a referee office that would unduly delay an in-person hearing in that referee office. These proposed amendments will provide an immediate improvement in customer service by allowing the Board to address a backlog of appeals in certain referee offices by distributing work from these referee offices to be held as telephone hearings in offices with a lower workload, subject to objection by any party.

This proposed rulemaking regularly provides parties and representatives the choice to participate in a hearing in-person or by remote means, with few exceptions. The option to appear at a hearing by remote means was overwhelmingly requested and supported by businesses, including small businesses, nursing and healthcare organizations, educational institutions and by some legal service organizations who represent claimants from both metropolitan and rural areas. The expansion of remote hearings will benefit both the worker and business community due to time and travel cost savings, and reduced health and safety risks for the parties. For workers, these proposed amendments will help alleviate child and parental care and employment conflicts to attend hearings. For businesses, especially small businesses and businesses with mandatory staff to client ratios, the expansion of remote hearings will mitigate any adverse effect on staffing and operations to attend an appeal hearing. For individuals with disabilities that affect their ability to travel, the increased availability of remote hearings will eliminate any obstacles or hardships for transportation to a hearing. While the expansion of remote hearings raises certain concerns from some claimant representatives in Philadelphia and Pittsburgh, the Board prepared proposed amendments to mitigate these concerns. Importantly, these proposed amendments provide any party, with few exceptions, the option to appear at a hearing in person if the party so chooses. These proposed amendments also provide (1) the opportunity to object to a remote hearing, and (2) the tribunal discretion to require both parties to appear in person for complex hearings or when needed to ensure a fair hearing. These proposed amendments provide safeguards for individuals with disabilities and individuals with language barriers by requiring both parties to appear in person if any party or witness will be prevented from effectively participating in the hearing if others are allowed to participate by remote means.

This proposed rulemaking also allows for hearings to be held by video conference or other comparable two-way communication technology. The use of video technology in business as well as personal communications has become more mainstream since the beginning of the pandemic in 2020 and the accessibility and familiarity with the use of video conference will continue to evolve. PA courts, and other boards and commissions within the Commonwealth are successfully holding hearings by video conference. The Board anticipates that video conference hearings will become a critical component of its hearings in the future, that they will ultimately enhance the quality of remote hearings, and that they will become the preferred method of remote hearings over the use of telephone hearings. The addition of video conference to remote hearings has also resulted in certain concerns

from some claimant representatives in Philadelphia and Pittsburgh based on the accessibility of broadband internet and equipment, and the limited technological knowledge of some claimants. However, to mitigate this concern, these proposed amendments allow parties and other participants to retain the choice to appear at the hearing in person if they are unable to effectively participate by remote means.

While this proposed rulemaking will become effective upon publication of the final-form regulation in the PA Bulletin, the Board will delay the use of video conference for hearings until after the supportive systems and processes have been developed, and the Board determines it can proceed with remote hearings enhanced by video without prejudice to any party. The PA UC Claims System used by the tribunal to schedule hearings does not currently have the functionality to receive requests for participation in a hearing by video conference or for the tribunal to schedule hearings to be held by video conference. The enhancement of the computer system, forms and other communications, and the process for the use of video conference, may not be immediate; however, the Board considers it important that video conference technology be allowed in this proposed rulemaking as a means for remote hearings as well as other comparable two-way communication technology that may be developed in the future to allow the Board to responsibly invest its resources into such endeavors. The Board is pursuing the passage of the enabling regulation and thereafter plans to invest its resources to develop the system and process, and to implement the use of video hearings in cases and in a manner where there will be no prejudice to either party.

(16) List the persons, groups or entities, including small businesses, that will be required to comply with the regulation. Approximate the number that will be required to comply.

UC claimants and their former employers will be required to comply with the regulation if either party appeals the UC Service Center's initial determination of eligibility or ineligibility. The number of UC claimants and employers affected will vary based on the rate of unemployment each year. For example, in 2024, a party (either the claimant or the employer) filed an appeal of the initial determination of eligibility or ineligibility in approximately 100,000 claims for UC benefits. Most of these appeals involved businesses, including small businesses, and some involved attorneys, tax consultants, or other representatives.

(17) Identify the financial, economic and social impact of the regulation on individuals, small businesses, businesses and labor communities and other public and private organizations. Evaluate the benefits expected as a result of the regulation.

This proposed rulemaking will have significant impact on UC claimants, employers, legal counsel, and non-attorney representatives involved in the appeal process, as well as on the Board as it administers the appeal process. UC claimants, employers, and their representatives will see a substantial positive financial impact in cost savings through the increase in participation in appeal hearings by remote means. The tribunal will also see cost savings through the increased use of remote hearings and the reduction of remand hearings. This proposed rulemaking will have a positive social impact as these proposed amendments provide consideration for issues and circumstances related to child and parental care, gender, disability, language barriers, identity and privacy of records, and accessibility and ability to use technology. In addition, this proposed rulemaking provides the potential for economic impact as it thoughtfully enables PA to continue to place among the leading states in the administration of the UC appeals program and helps to make PA a better place to live and conduct business.

The proposed amendments to Subchapter E, Remote Hearings will have the most impact of the amendments in this proposed rulemaking. As indicated in question 15, the proposed amendments to Subchapter E allow parties and their representatives the choice to participate in a UC hearing in person or by remote means, with few exceptions. The option to appear at a hearing by remote means was overwhelmingly requested and supported by the business community and also by some legal representatives of the worker community. Reasons noted by these stakeholders included saving the time and travel expense to attend hearings in person and avoiding recent increased health and safety risks of an in-person hearing. Remote participation at a hearing benefits workers who have begun new employment at the time of the hearing and who have childcare conflicts. Remote participation also benefits businesses, especially small businesses, who are juggling staffing and operational needs while also participating in a hearing which can affect their UC tax rate and charges. These proposed amendments also improve accessibility, customer service, and the quality of remote hearings. By providing relief to these financial and social matters for employers and workers, the proposed amendments to Subchapter E may help to attract and retain business and workers which will benefit PA's economy.

Other positive financial and social impacts from this proposed rulemaking include (1) enhanced communications through electronic delivery of filings and notices to reduce mailings costs for all parties and the Board, (2) cost savings from a reduction of further appeals and remand hearings, (3) assistance to workers and businesses, including individuals with mental or technological challenges, by accepting appeals filed by additional methods or appeals of multiple determinations, (4) providing additional time for arriving, connecting, or reconnecting to a hearing, and resources for instructions and guidance on attending appeal hearings, (5) reducing identity theft and fraud and preventing circulation or rebroadcasting of any audio or video portion of an appeal hearing, and (6) the use of gender neutral language.

(18) Explain how the benefits of the regulation outweigh any cost and adverse effects.

As indicated in items 10, 15 and 17 above, there is substantial positive impact and cost savings to workers, businesses, legal counsel, and other representatives. As indicated in item 19, there is no cost to the regulated community, and there is a potential for cost savings if the regulated community becomes a party to a UC appeal hearing. As indicated in item 14, the Board conducted substantial stakeholder outreach, and this proposed rulemaking is responsive to the large majority of stakeholder feedback. The concerns raised by a few stakeholders from the worker community are mitigated in this proposed rulemaking and can be addressed with additional training. The Board will also see cost savings by (1) redistributing appeals to referees in other offices to hold remote hearings in certain situations, (2) reducing the number of postponed and rescheduled hearings, and (3) reducing the number of further appeals and remand hearings. The Board will have a potential financial cost to supply referee offices and hearing sites with video conference equipment when it broadens the conduct of remote hearings to include video conference or other comparable two-way communications. The Board will evaluate the type, amount, and cost of equipment necessary to implement video hearings prior to such a change. However, the addition of video hearings will have benefits that will outweigh the financial cost to the Board. Moreover, an in-person hearing remains available to parties and their representatives, so the addition of video hearings presents little or no negative impact to parties and representatives who desire to participate in person.

In summary, this proposed rulemaking results in no adverse effect on the regulated community. No costs are expected for the regulated community, local governments or state agencies other than the Board. There is substantial positive financial impact to stakeholders as well as positive social and economic impact. The Board will experience increased efficiency in its operations, improvement in its the timeliness of hearings, and cost savings through reduced time and travel costs. Therefore, the benefits of this proposed rulemaking will substantially outweigh any cost.

(19) Provide a specific estimate of the costs and/or savings to the **regulated community** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

There is no cost to the regulated community as a result of this proposed rulemaking to participate in the appeal process, and the regulated community has a choice whether to utilize the opportunities provided in this proposed rulemaking for cost savings or to maintain status quo. The regulated community will see substantial cost savings, although the Board is not able to estimate the specific amount of cost savings as the potential savings are not within the control of the Board and cannot be calculated from existing Board data. Regarding the expansion of remote hearings, stakeholder feedback and common knowledge indicate that parties and their representatives will see substantial savings. The exact amount of savings is dependent on external factors, e.g., whether the party elects to participate by remote means, the travel time and travel distance to the hearing site, whether public or private transportation is available, the number of participants, including witnesses, and whether any participant requires child or parental care to attend in person (thus saving those costs if they participate by remote means). Moreover, parties and their representatives will see savings resulting from increased use of electronic correspondence, although the Board cannot estimate exactly how much parties will save in this circumstance. Savings resulting from improved hearing attendance and a reduction in remand hearings can also not be determined.

(20) Provide a specific estimate of the costs and/or savings to the **local governments** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

This proposed rulemaking will have no direct impact on local governments and will not result in an increase of costs to a local government. However, to the extent that local government, including a public school district, is the employer involved in an appeal of a current or former employee's UC claim, the regulation provides the opportunity to reduce the time and travel costs of attending an appeal hearing, although the cost savings will vary depending on factors such as the number of witnesses, the presence of legal counsel, and the amount of travel time. The regulation also provides local government the opportunity to reduce paper and postage costs if it chooses to use electronic communication for appeal filings and requests.

(21) Provide a specific estimate of the costs and/or savings to the **state government** associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required. Explain how the dollar estimates were derived.

With the exception of the Board, this proposed rulemaking will have no direct impact on state government and will not result in an increase of costs to the state government. The definition of "agency record" in § 101.2 requires the UC Service Center to provide certain documents to the tribunal to be included in the appeal record; however, the current procedure already requires these documents to be provided. As such, there should be no impact on the UC Service Center. This proposed rulemaking does not otherwise directly impact the operations of any state government agency.

However, if a state government agency is an employer and becomes a party to an appeal of an UC claim of a current or former employee or is required to appear at a hearing as a witness, the regulation will reduce the time and travel costs of attending an appeal hearing. The cost savings will vary depending on the number of witnesses, the presence of legal counsel, and the amount of travel time. The regulation also provides state government the opportunity to reduce paper and postage costs if it chooses to use electronic communication for appeal filings and requests.

The Board will see increased efficiency and cost savings. The amendment allowing the redistribution of appeals to other referee offices in certain situations will save the administrative costs that would otherwise be incurred. The Board will also save administrative costs through the reduction in postponed, rescheduled and remand hearings. These administrative cost savings are dependent on unpredictable factors such as rapid regional fluctuations in workload and staffing that require immediate response or other external factors which cannot be measured or projected from existing Board data. Therefore, the Board is unable to quantify the potential administrative cost and time savings.

The Board will have future costs to supply referee offices and hearing sites with video conference equipment and to modify the PA UC Claims System to schedule and conduct video conference hearings. The Board may also have separate financial costs to acquire software or obtain a service to initiate conference calls for all remote hearings and to record video conference hearings. The cost to the Board for the equipment to conduct video hearings will ultimately depend on the system and process for conducting video hearings selected by the Board, consistent with Department guidelines, at the time of implementation and on monitoring of the quality of video hearings during the implementation of video hearings. The Board estimates the cost of equipment will range from

\$80,000 to \$275,000. If the Board is required to acquire any additional service from a vendor to use for conference calls and/or video hearings, the cost will likely depend on the Commonwealth's bidding process for contracts with vendors. Therefore, this cost cannot be quantified at this time.

A significant portion of this proposed rulemaking concerns procedural issues, such as the methods of communication, time requirements for submissions, and processes for the tribunal. Some of the procedural provisions of this proposed rulemaking codify current practices. These procedural requirements do not affect eligibility issues, and it is not anticipated these provisions will result in an increase or decrease in benefit payments. For these reasons, the proposed procedural amendments will not involve costs or savings for the UC Fund.

(22) For each of the groups and entities identified in items (19)-(21) above, submit a statement of legal, accounting or consulting procedures and additional reporting, recordkeeping or other paperwork, including copies of forms or reports, which will be required for implementation of the regulation and an explanation of measures which have been taken to minimize these requirements.

This proposed rulemaking will not change, or impose new, reporting, record keeping or paperwork requirements on claimants or employers. However, existing electronic UC appeal reports may be amended to acquire data to monitor and report on the usage and effectiveness of the changes to the Board's processes and procedures in this proposed rulemaking.

(22a) Are forms required for implementation of the regulation?

No new forms are required; however, this proposed rulemaking will require minor revisions to existing forms and to the Board's web site. These minor revisions will address the method to request a remote hearing, objecting to a remote hearing, submitting evidence for a remote hearing, subpoenaing witnesses for a remote hearing, and obtaining assistance for a remote hearing. The Board will implement the use of conference calls for parties to join hearings and the use of video hearings at a later date after the process and system are developed, so the Board has not yet developed revisions to forms for these aspects.

(22b) If forms are required for implementation of the regulation, **attach copies of the forms here**. If your agency uses electronic forms, provide links to each form or a detailed description of the information required to be reported. **Failure to attach forms, provide links, or provide a detailed description of the information to be reported will constitute a faulty delivery of the regulation.**

The Board uses all electronic forms. New electronic forms are not yet available. The Board will revise the electronic forms as specified below. The current version of each form is attached.

Form UC-47 Appeals Instructions.

- Remove the requirement to provide the claimant's Social Security number (SSN) and add instructions to provide only the last four digits of the claimant's SSN, the claim number, and the determination number, if known.

Form UC-46(B) Petition for Appeal.

- Remove space for full SSN and provide space to record the last four digits of the claimant's SSN, the claim number or the determination number.
- Provide space to record the telephone number and email address or other contact information of the appellant.

- Provide space to record whether the appellant desires to participate in the hearing by remote means.

Form UC-2061 Acknowledgement of UC Appeal to Referee.

- Add a variable indicating whether the party requested a hearing by remote means.
- Provide instructions on how any party to the appeal proceedings may request to participate in the hearing by remote means. The instructions will advise the party to make a written request via the PA UC Claims System, or by email, USPS mail or personal delivery to the referee office to which the appeal is assigned.

Forms UC-71 Witness Subpoena and UC-73 Subpoena Duces Tecum.

- Add language to require appearance by remote means, to record witness telephone number and other contact information, and to provide instructions how to participate in the hearing.

Forms UC-53(9) Notice of Telephone Hearing UC Appeal and UC-53(4) Notice of Telephone Board Hearing – Remand.

- Add instructions how to participate in the hearing and how to obtain assistance with participation in the hearing as scheduled, including:
 - The method to obtain detailed written instructions for participation by remote means. The instructions will guide the participants to the Board's web page.
 - Notice of the right to object to participation or receipt of testimony at the hearing by remote means.
 - Instructions on how to notify the tribunal of an objection and how to request an in-person hearing. The instructions will advise the party to make a written notice specifying the reason for the objection via the PA UC Claims System, or by email, USPS mail or personal delivery to the referee office to which the appeal is assigned.
 - The method to notify the tribunal of a correct telephone number or other contact information. The instructions will advise the party to make a written notice providing the correct telephone number or other contact information via the PA UC Claims System, or by email, USPS mail or personal delivery to the referee office to which the appeal is assigned.
 - The method by which documents may be provided. The instructions will inform the parties they may submit documents via the PA UC Claims System on the appeal information page for the docket number under appeal or by email, USPS mail or personal delivery to the referee office to which the appeal is assigned. The parties will be advised of the time restrictions to provide such documents to the referee office to allow the referee office sufficient time to circulate the evidence to the opposing party and any legal counsel or other representation scheduled to participate in the hearing.
 - The method to obtain assistance to access or connect to a hearing held by remote means in advance of the hearing and to report an access or connectivity issue during and after a hearing. The instructions will advise the party to call the referee office to which the appeal is assigned or a separate designated resource center if such a designated resource becomes available.
 - The attachment titled "Regulations Governing Telephone Hearings" must be updated with the amended title and regulation.

(23) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

	Current FY Year 2024-25	FY +1 Year 2025-26	FY +2 Year 2026-27	FY +3 Year 2027-28	FY +4 Year 2028-29	FY +5 Year 2029-30
SAVINGS:	\$	\$	\$	\$	\$	\$
Regulated Community	Unquantifiable	Unquantifiable	Unquantifiable	Unquantifiable	Unquantifiable	Unquantifiable
Local Government	Unquantifiable	Unquantifiable	Unquantifiable	Unquantifiable	Unquantifiable	Unquantifiable
State Government	Unquantifiable	Unquantifiable	Unquantifiable	Unquantifiable	Unquantifiable	Unquantifiable
Total Savings	Unquantifiable	Unquantifiable	Unquantifiable	Unquantifiable	Unquantifiable	Unquantifiable
COSTS:						
Regulated Community	\$0	\$0	\$0	\$0	\$0	\$0
Local Government	\$0	\$0	\$0	\$0	\$0	\$0
State Government	Unquantifiable	Unquantifiable	Unquantifiable	Unquantifiable	Unquantifiable	Unquantifiable
Total Costs	Unquantifiable	Unquantifiable	Unquantifiable	Unquantifiable	Unquantifiable	Unquantifiable
REVENUE LOSSES:						
Regulated Community	\$0	\$0	\$0	\$0	\$0	\$0
Local Government	\$0	\$0	\$0	\$0	\$0	\$0
State Government	\$0	\$0	\$0	\$0	\$0	\$0
Total Revenue Losses	\$0	\$0	\$0	\$0	\$0	\$0

(23a) Provide the past three year expenditure history for programs affected by the regulation.

Program	FY -3 2021-22	FY -2 2022-23	FY -1 2023-24	Current FY 2024-25
UCBR	\$21,697,297.41	\$21,592,430.36	\$21,901,549.27	As of December 31, 2024, \$12,062,381.44

(24) For any regulation that may have an adverse impact on small businesses (as defined in section 3 of the Regulatory Review Act, Act 76 of 2012), provide an economic impact statement that includes the following:

- (a) An identification and estimate of the number of small businesses subject to the regulation.
- (b) The projected reporting, recordkeeping and other administrative costs required for compliance with the proposed regulation, including the type of professional skills necessary for preparation of the report or record.
- (c) A statement of probable effect on impacted small businesses.
- (d) A description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation.

The amendments in this proposed rulemaking will not result in an adverse impact on small business. To the contrary, this proposed rulemaking will have a significant positive impact on small businesses through cost savings for increased participation in hearings by remote means.

(25) List any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, the elderly, small businesses, and farmers.

These proposed amendments will help all claimants and employers involved UC appeals, especially smaller businesses and affected persons with limited financial resources, by providing less costly electronic methods to make submissions and correspondence with the tribunal, lengthening time periods for submissions, and most importantly, by allowing parties to a hearing to participate remotely if that party so chooses.

The option to appear at a hearing by remote means was overwhelmingly requested and supported by the business community, including non-profit and educational institutions that serve affected groups and persons, and also by some legal counsel in the worker community that serve affected persons. These stakeholders noted the time and travel cost savings to attend hearings, the ability to serve more clientele, and reduced health and safety risks. The option to appear at a hearing remotely is especially beneficial to individuals with disabilities and limited financial resources which make it difficult to travel to hearings and to those individuals with child or elderly care needs. The option to appear at a hearing remotely is a tremendous benefit to small businesses who are trying to juggle staffing and operations while also participating in a hearing which can significantly affect their UC tax rate and charges. While this proposed rulemaking expands the use of technology in the appeal process, it was developed with consideration to minorities that may have language barriers and to claimants and small businesses who may have challenges with knowledge of the use of technology or lack equipment, access to high-speed internet and other resources to participate in remote hearings.

Please refer to §§ 101.128 and 101.130(a)(3.2) and other specific provisions of Subchapter E.

(26) Include a description of any alternative regulatory provisions which have been considered and rejected and a statement that the least burdensome acceptable alternative has been selected.

This proposed rulemaking was prepared to eliminate and amend provisions that are currently burdensome to the regulated community. Any alternative regulatory scheme considered would not have been less burdensome for the regulated community. However, a provision was considered that would have created efficiency and reduced an obstacle on the Board to administer the appeals program. Section 101.128(c) was initially written to state:

“For hearings at which one party is permitted to testify by remote means, the tribunal may schedule all parties and witnesses to testify by remote means after a reasonable attempt has been made to notify the parties the hearing will be scheduled for all parties to appear by remote means, inform the parties of their right to object to participation by remote means and how to request an in-person hearing.”

The Board and SEIU (union for appeals referees) share a concern that a significant increase in hearings where one party appears by remote means and one party appears in-person, referred to as “hybrid hearings,” may be time-consuming for the referee office staff to schedule and may present certain challenges for the referee to conduct. The above provision would have provided specific authority to the tribunal to schedule both parties by remote means when one party requested to appear by remote means while providing safeguards to parties who desire to appear in person at the hearing, thus reducing the number of hybrid hearings when neither party opposes a remote hearing. However, the Board removed this provision from the proposal to address concerns from the claimant advocate community this provision would be burdensome on the claimant community.

(27) In conducting a regulatory flexibility analysis, explain whether regulatory methods were considered that will minimize any adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), including:

- a) The establishment of less stringent compliance or reporting requirements for small businesses;
- b) The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses;
- c) The consolidation or simplification of compliance or reporting requirements for small businesses;
- d) The establishment of performance standards for small businesses to replace design or operational standards required in the regulation; and
- e) The exemption of small businesses from all or any part of the requirements contained in the regulation.

This proposed rulemaking will have a significant positive impact on small businesses by increasing the use of remote hearings, thus reducing the adverse impact of small businesses being required to attend UC appeal hearings in person. Small businesses are often faced with the scheduling dilemma of closing or reducing operations in order to appear and present witnesses for an in-person hearing. Therefore, this proposed rulemaking will have a significant benefit to small businesses.

(28) If data is the basis for this regulation, please provide a description of the data, explain in detail how the data was obtained, and how it meets the acceptability standard for empirical, replicable and testable data that is supported by documentation, statistics, reports, studies or research. Please submit data or supporting materials with the regulatory package. If the material exceeds 50 pages, please provide it in a searchable electronic format or provide a list of citations and internet links that, where possible, can be accessed in a searchable format in lieu of the actual material. If other data was considered but not used, please explain why that data was determined not to be acceptable.

Data was not used as the basis for this proposed rulemaking.

(29) Include a schedule for review of the regulation including:

- A. The length of the public comment period: 30 days
- B. The date or dates on which any public meetings or hearings were held: February 24, June 27, June 28, July 6, July 13, July 26, August 2, August 3, August 24, August 29, 2023
- C. The expected date of delivery of the final-form regulation: Unknown at this time.
- D. The expected effective date of the final-form regulation: The amendments will become effective upon publication of final-form rulemaking in the Pennsylvania Bulletin. *
- E. The expected date by which compliance with the final-form regulation will be required: Compliance with the amendments will be required upon publication of final-form rulemaking in the Pennsylvania Bulletin. *
- F. The expected date by which required permits, licenses or other approvals must be obtained: N/A

*All of the provisions in this proposed rulemaking will become effective immediately upon publication of the final-form rulemaking in the PA Bulletin; however, the Board will implement the use of conference calls for parties to initiate entry into a hearing and the enhancement of video remote hearings at a later date after the process and system are developed.

(30) Describe the plan developed for evaluating the continuing effectiveness of the regulations after its implementation.

The effectiveness of the regulations will be monitored in day-to-day operations, including weekly, monthly and other periodic reports. The Board conducts quality appraisals of referee hearings on a quarterly basis and management's review of hearings for quarterly quality appraisals will also be used to evaluate the effectiveness of the regulations.

APPEAL INSTRUCTIONS

Under Section 501(e) of the Pennsylvania Unemployment Compensation Law, this determination becomes final unless you file an appeal. You have 21 calendar days after the determination date on the determination to file a timely appeal. However, if the 21st day is a Saturday, Sunday or legal holiday, you may file a timely appeal on the next business day. If your appeal is not filed on time, the UC Board of Review will determine if you had good cause for filing a late appeal.

Your appeal must include the claimant's name; address; Social Security number; the date of the determination being appealed; determination number (if known); the reason for the appeal; and the name and address of the individual filing the appeal.

You may file your appeal:

- online on the Department Electronic Unemployment System;
- by completing the Petition for Appeal form (included with your determination), and mailing, faxing or emailing the petition for appeal to the department;
- by mailing, faxing or emailing an appeal letter to the department; or,
- in person at a PA CareerLink®

If you appeal online:

- The filing date is the date recorded by the Department Electronic Unemployment System.
- Log in to your account at <https://benefits.uc.pa.gov>, from your dashboard under "Unemployment Services," click on "Appeals" and then click on the tab for "Determinations" to locate the determination you wish to appeal. Click on the action "File Appeal" and proceed to complete the required entries.
- The Department Electronic Unemployment System will acknowledge that your appeal has been successfully filed and you will be able to immediately view your appeal status through the "Appeals Filed" tab on your online account. If your appeal has not been acknowledged and you cannot view it under "Appeals Filed," contact the UC Service Center.
- Online filing is the most efficient and preferred method of filing an appeal.
- You must file a separate appeal for each determination you wish to appeal. For example, if you were issued a determination that disqualifies benefits and a determination that establishes an overpayment, and wish to appeal both determinations, you must file a separate appeal to each determination, for a total of two appeals.

If you appeal by mail:

- U.S. Postal Service: The filing date is the U.S. Postal Service postmark date, the date of a Postal Service certificate of mailing or the date of a Postal Service certified mail receipt. In the absence of these dates, the filing date is the date of a postage meter mark. In the absence of all the above dates, the filing date is the date the department receives the appeal.
- Common carrier: The filing date is the date the envelope is delivered to a common carrier. If that date cannot be determined, the filing date is the date the department receives the appeal.
- The mailing address for your appeal is:

Mail Processing Unit
651 Boas St 5th Fl
Harrisburg PA 17121



If you appeal by fax:

- The filing date is the date imprinted by the receiving fax machine. If the receiving machine does not provide a date, the filing date is the date imprinted by the sending fax machine. If neither machine provides a date, the filing date is the date the appeal is received by the department.
- Keep a copy of the successful fax transmission report for your records.
- The fax number for your appeal is: 855 728 2329 or 855 PA UC FAX

If you appeal by electronic mail (email):

- If you file your appeal by email, the appeal is filed on the date of receipt recorded by the department's electronic transmission system.
- You are responsible for using the proper format and email address
- You should receive a confirmation email that your appeal was received. Keep this confirmation email for your records. If you don't receive a confirmation email, check that you sent the email to the correct address. If you did, contact the UC Service Center.
- The email address for your appeal is: UCAppeals@pa.gov

If you appeal in person at a PA CareerLink®:

- The filing date is the date you deliver the appeal to the PA CareerLink® during regular business hours. The PA CareerLink® will forward your appeal to the UC Service Center.
- Keep a date-stamped copy of the appeal for your records.
- You cannot file an in-person appeal at the UC Service Center.
- The Careerlink office is not able to answer questions regarding determinations, appeals, or specific information on your claim.

IMPORTANT:

- If you file your appeal by fax or email, you accept the risk of delay, disruption or interruption of electronic signals, which may affect the timeliness of the appeal.
- If you remain partially or fully unemployed while an appeal concerning your eligibility is pending, continue to file your weekly claims for benefits. If the appeal is decided in your favor, only benefits for the weeks you claimed will be released for payment.



PETITION FOR APPEAL

IMPORTANT!

READ THE INFORMATION ON THE LAST PAGE OF THIS FORM BEFORE FILING AN APPEAL

If you want to appeal the notice of determination, you must file by the last date to appeal as indicated on the determination. You may file an appeal electronically via your account on the PA UC Claims System website at <http://www.uc.pa.gov>. This is the most efficient and preferred method of filing. You may also file the appeal by fax, email or mail by completing the form below and returning this form in accordance with the appeal instructions enclosed with the notice of determination.

FOLLOW THE APPEAL INSTRUCTIONS CAREFULLY!

DATE OF DETERMINATION BEING APPEALED _____

CLAIMANT'S SOCIAL SECURITY NO. _____

DETERMINATION NUMBER: _____

CLAIMANT'S TELEPHONE NO. _____ EMPLOYER'S TELEPHONE NO. _____

CLAIMANT'S NAME AND ADDRESS _____

EMPLOYER'S NAME AND MAILING ADDRESS _____

COUNTY IN WHICH WORK WAS PERFORMED: (IF
DIFFERENT FROM EMPLOYER ADDRESS ABOVE)

EMPLOYER'S ACCOUNT NO. _____

REASON(S) FOR DISAGREEING WITH THE DETERMINATION AND FILING THIS APPEAL ARE:

I certify that all information I have provided in this document is correct and complete. I acknowledge that false statements in this document are punishable pursuant to 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.

NAME OF PERSON FILING APPEAL

AUTHORIZATION OF FEDERAL TAX INFORMATION

I hereby authorize the disclosure of my federal tax information (FTI), consisting of federal tax returns or return information (and information derived from it) that the Pennsylvania Department of Labor and Industry, Office of Unemployment Compensation (UC) Benefits Policy possesses or controls, for use in the following UC proceedings:

- [Appeals from UC Service Center Determinations to a UC Referee](#)
- [Appeals from UC Referee Decisions to the UC Board of Review](#)
- [Appeals from UC Board of Review Decisions to the PA Commonwealth Court](#)

I understand that my FTI will be used for the sole purpose of addressing the above-referenced UC proceedings. A copy of this authorization shall be as valid as the original. This authorization is effective immediately.

Signature: _____ Date: _____

DO YOU NEED ASSISTANCE?

¿NECESITA AYUDA?

Any interested party at an appeal hearing before the Unemployment Compensation Board of Review or one of the Board's referees must be able to deal effectively with both written evidence and oral testimony. If you are a person who:

- Requires assistance because of a disability with hearing, speech and/or vision, or
- Needs an interpreter for your own language other than English,

you must properly notify the Board about this. The Board is responsible to provide an appropriate device or qualified interpreter whose credentials are certified for quasi-judicial proceedings and the Board covers the cost required to provide this assistance.

If you are in either of these situations, please enter the information when you file your appeal online at uc.pa.gov or TYPE or PRINT to complete the section below and submit it with your appeal form.

I require an interpreter for: _____ Spanish

Yo necesito un intérprete por: _____ Espanol

Another spoken language (please specify): _____

I require assistance to participate in the hearing because of disability with:

_____ Hearing _____ Speech _____ Vision _____ Other _____

I require an interpreter to participate in the hearing for:

_____ American Sign Language(ASL) _____ Oral _____ Signed English
_____ Other (please specify) _____

I require the following device to participate in the hearing:

_____ Assistive listening device (ALD) (please specify) _____
_____ Other (please specify) _____

I am requesting to participate in the hearing by telephone for the following reason:

_____ Distance from site of hearing _____ Current employment _____ Transportation
_____ Health reason _____ Other compelling reasons (please specify) _____

Participation by telephone will be decided by the appeals referee and will only be granted for compelling reasons. The following details explain why my request to appear by telephone should be considered compelling:

INFORMATION ABOUT THIS FORM AND THE APPEAL PROCESS

What is the purpose of this form?

This is an appeal form. If you disagree with the UC Service Center determination and decide to appeal, please read your determination and the appeal instructions for information on where to file your appeal. You may file an appeal electronically via your account on the PA UC Claims System. This is the most efficient and preferred method of filing. Simply log on to uc.pa.gov to access your claim and click on Unemployment Services > Appeals > Determinations > File Appeal to begin the process. If you wish to file by fax, email or mail, you may use this form to appeal the enclosed notice of determination. If you file an appeal, a copy of the completed form will be sent to all parties.

Do I qualify to file an appeal?

If you are the claimant, you may appeal if the determination denies UC benefits and you think you should be eligible for benefits. If you are the employer, you may appeal if the determination grants benefits and you think the claimant should be ineligible or eligible for fewer benefits, or if the determination denies your request for relief from charges. You must indicate your reason for filing an appeal.

What do I do if I have questions?

Do not use this form to ask questions about the enclosed determination or UC benefits. This form should be used only to file an appeal. If you have any questions about UC, call the UC Service Center at 1-888-313-7284. If you would like to ask a question before you decide whether to appeal, call promptly because an appeal must be filed no later than 21 calendar days after the date provided on the notice of determination.

What happens if I file an appeal?

After your appeal is received and processed, an Acknowledgement of UC Appeal will be mailed to you as notification that it has been processed.

If an appeal is filed, a UC referee will conduct a hearing where the parties and their witnesses can give testimony under oath. The parties may arrange for witnesses with firsthand knowledge of the facts to participate in the hearing. Firsthand knowledge refers to something which the witness actually saw or heard, as distinguished from something learned from some other person or source. Information learned secondhand might not, depending on the circumstances, be considered at the hearing.

If the hearing concerns the claimant's separation from employment, and the claimant quit his or her job, the claimant will be ineligible for benefits unless the claimant proves that there was a necessitous and compelling reason to voluntarily leave work. If the employer discharged the claimant, the claimant's separation will not be disqualifying unless the employer proves that the claimant was dismissed for willful misconduct or the claimant's unemployment is his or her fault.

At the hearing, the referee will try to obtain testimony about all the facts relevant to the appeal. The referee will issue a decision after the hearing and mail a copy to the parties.

May I have legal representation?

Whether you are the claimant or the employer, you may file your own appeal and represent yourself throughout the appeal process, or you may have an attorney or any other advocate represent you. If you are the claimant and you qualify, free legal assistance may be available from the legal services organization serving your area, your local bar association, or a law school clinic.

Should I file claims while an appeal is pending?

Yes. If the employer appeals a determination granting you benefits, you can receive benefits while the appeal is pending. If you appeal a determination denying benefits and the appeal is decided in your favor, only benefits for weeks that you claimed while the appeal was pending can be paid. Therefore, if you remain partially or fully unemployed while an appeal concerning your eligibility is pending, continue to file claims for benefits. UC claims can be filed by logging in to your account on the PA UC Benefits System website at uc.pa.gov. If you are unable to file, your UC Service Center can assist you by calling 1-888-313-7284.

ACKNOWLEDGMENT OF UC APPEAL TO REFEREE

Date Mailed: **[##MailDate##]**

[##RecipientName##]

[##RecipientAddress1##]

[##RecipientAddress2##]

[##RecipientCityStateZIP##]

Claim Number:

[##ClaimNum##]

Determination Number:

[##DetNum##]

Appeal Filed By:

[##Appellant##]

Appeal Filed Date:

[##AppealDate##]

Referee Office Docket:

[##DocketNum##]

Claimant: **[##Claimant##]**

Claimant address: **[##ClaimantAddress1##]**

[##ClaimantAddress2##]

[##ClaimantCityStateZIP##]

Employer: **[##Employer##]**

Employer address: **[##EmployerAddress1##]**

[##EmployerAddress2##]

[##EmployerCityStateZIP##]

Date of Application for Benefits: **[##ABDate##]**

Date of Determination: **[##DetDate##]**

The department has received an appeal on this UC claim for determination number **[##DetNum##]**. This appeal does NOT affect any benefits currently being received. This notice only confirms that an appeal has been filed. This is NOT a decision. The determination and the appeal are available for you to view by logging into your account on the PA UC Benefits System website at **[##SystemURL##]**. If you are unable to access your account on the website, you may contact the UC Service Center for a copy of the determination and/or appeal.

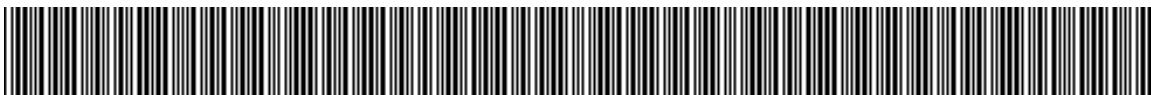
This appeal is being assigned to the **[##RefOffice##]**. A hearing will be scheduled by the referee office in the near future. You will receive a Notice of Hearing in accordance with the method you selected in the Pennsylvania UC Benefits System. The notice will give you the hearing date, time, location and specific issues to be covered at the hearing.

Everyone who is a party to this appeal will have the opportunity to testify and present witnesses and evidence during this hearing. **It is important that all parties participate and follow instructions as explained in the Notice of Hearing.**

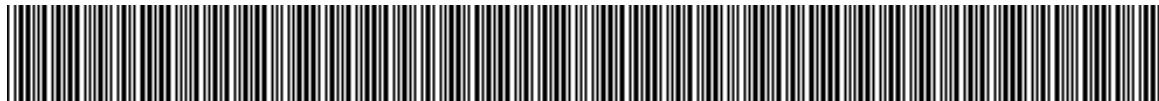
Additional Information:

If you remain partially or totally unemployed while the appeal is pending, you should continue to file weekly claims for benefits. Remember: If you return to work but you're not working full time, be sure to report your earnings each week when you file for benefits. For further information on UC claims and appeals you can login to your account on the PA UC Benefits System website at **[##SystemURL##]**.

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



Equal Opportunity Employer/Program





Additional Interested Parties

[##Party1Name##]
[##Party1Address1##]
[##Party1Address2##]
[##Party1CityStateZIP##]

[##Party2Name##]
[##Party2Address1##]
[##Party2Address2##]
[##Party2CityStateZIP##]

[##Party3Name##]
[##Party3Address1##]
[##Party3Address2##]
[##Party3CityStateZIP##]

[This section will expand to list all interested parties linked to the appeal]



Date Mailed: **[##MailDate##]**

[##RecipientName##]

[##RecipientAddress1##]

[##RecipientAddress2##]

[##RecipientCityStateZIP##]

Claim Number:

[##ClaimNum##]

Determination Number:

[##DetNum##]

Appeal Filed By:

[##Appellant##]

Appeal Filed Date:

[##AppealDate##]

Referee Office Docket:

[##DocketNum##]

IN RE CLAIM OF:

[##ClaimantName##]

You are hereby required, in accordance with the provisions of Sections 506, 507 and 508 of Article V of the Pennsylvania Unemployment Compensation Law, enacted December 5, 1936, to participate in a hearing before **[##RefereeName##]**, Referee.

At a hearing to be held at: **[##HearingLocation##]**

[##HearingLocationAddress1##]

[##HearingLocationAddress2##]

[##HearingLocationCityStateZIP##]

On **[##HearingDate##]** at **[##HearingTime##]**.

To give evidence of any information you possess relative to the claim for benefits under the Unemployment Compensation Law filed by **[##ClaimantName##]**, Claimant.

DATED: [##MailDate##]

[##RefereeName##]

FOR THE UNEMPLOYMENT COMPENSATION BOARD OF REVIEW

*Auxiliary aids and services are available upon request to individuals with disabilities.
Equal Opportunity Employer/Program*



SERVICE

DATE: _____

I have made due and legal service of this subpoena upon **[##WitnessName##]**, Witness, by reading the same in the presence and hearing of said Witness, and have provided said Witness a copy of this subpoena.

SIGNATURE OF PERSON SERVING SUBPOENA: _____

[##DocketNum##]
APPEALS DOCKET

[##ClaimantName##]
IN RE CLAIM OF

WITNESS SUBPOENA

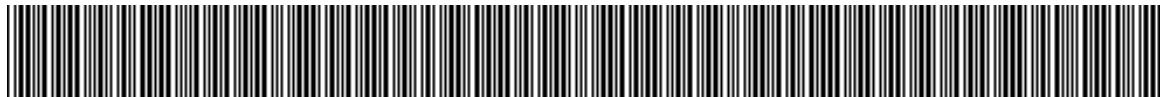
ACKNOWLEDGMENT

DATE: _____

Due and legal service of this subpoena is hereby acknowledged.

SIGNATURE OF PERSON RECEIVING SUBPOENA: _____

**Return, or bring to hearing, one copy of subpoena with both service and
acknowledgment signatures.**



INSTRUCTIONS

ENCLOSED ARE TWO (2) COPIES OF EACH INDIVIDUAL SUBPOENA WHICH YOU HAVE REQUESTED.

IT IS ENTIRELY YOUR RESPONSIBILITY TO SERVE THE SUBPOENA. (YOU MAY DO SO YOURSELF OR YOU MAY HAVE SOMEONE ELSE SERVE THE SUBPOENA FOR YOU)

KEEP IN MIND THAT BOTH COPIES MUST BE SIGNED AND DATED ON THE REVERSE OF THE SUBPOENA AS FOLLOWS:

- UNDER "SERVICE"

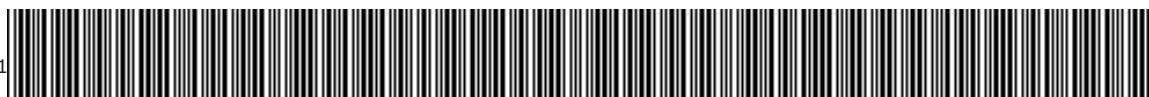
THE PERSON SERVING THE SUBPOENA DATES AND SIGNS BOTH SUBPOENAS IN THE PRESENCE OF THE SUBPOENAED WITNESS.

- UNDER "ACKNOWLEDGMENT"

THE PERSON WHO IS BEING SUBPOENAED SIGNS AND DATES BOTH SUBPOENAS IN THE PRESENCE OF THE PERSON SERVING THE SUBPOENA.

THE PERSON BEING SUBPOENAED KEEPS ONE COPY OF THE SUBPOENA IN ORDER TO HAVE NOTICE OF THE DATE, TIME AND LOCATION OF THE HEARING.

THE SECOND COPY MUST BE BROUGHT TO THE HEARING TO BE ENTERED INTO THE OFFICIAL RECORD.



SUBPOENA DUCES TECUM

Date Mailed: **[##MailDate##]**

[##RecipientName##]

[##RecipientAddress1##]

[##RecipientAddress2##]

[##RecipientCityStateZIP##]

Claim Number:

[##ClaimNum##]

Determination Number:

[##DetNum##]

Appeal Filed By:

[##Appellant##]

Appeal Filed Date:

[##AppealDate##]

Referee Office Docket:

[##DocketNum##]

IN RE CLAIM OF:

[##ClaimantName##]

You are hereby required, in accordance with the provisions of Sections 506, 507 and 508 of Article V of the Pennsylvania Unemployment Compensation Law, enacted December 5, 1936, to participate in a hearing before **[##RefereeName##]**, Referee.

At a hearing to be held at: **[##HearingLocation##]**

[##HearingLocationAddress1##]

[##HearingLocationAddress2##]

[##HearingLocationCityStateZIP##]

On **[##HearingDate##]** at **[##HearingTime##]**.

And to have with you the following:

[##Documents##]

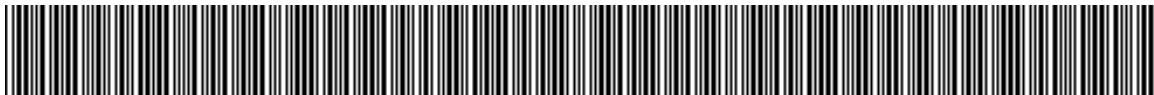
To be used at a hearing on the claim for benefits under the Unemployment Compensation Law filed by **[##ClaimantName##]**, Claimant.

DATED: [##MailDate##]

[##RefereeName##]

FOR THE UNEMPLOYMENT COMPENSATION BOARD OF REVIEW

*Auxiliary aids and services are available upon request to individuals with disabilities.
Equal Opportunity Employer/Program*



SERVICE

DATE: _____

I have made due and legal service of this subpoena upon **[##WitnessName##]**, Witness, by reading the same in the presence and hearing of said Witness, and have provided said Witness a copy of this subpoena.

SIGNATURE OF PERSON SERVING SUBPOENA: _____

[##DocketNum##]
APPEALS DOCKET

[##ClaimantName##]
IN RE CLAIM OF

SUBPOENA DUCES TECUM

ACKNOWLEDGMENT

DATE: _____

Due and legal service of this subpoena is hereby acknowledged.

SIGNATURE OF PERSON RECEIVING SUBPOENA: _____

**Return, or bring to hearing, one copy of subpoena with both service and
acknowledgment signatures.**



INSTRUCTIONS

ENCLOSED ARE TWO (2) COPIES OF EACH INDIVIDUAL SUBPOENA WHICH YOU HAVE REQUESTED.

IT IS ENTIRELY YOUR RESPONSIBILITY TO SERVE THE SUBPOENA. (YOU MAY DO SO YOURSELF OR YOU MAY HAVE SOMEONE ELSE SERVE THE SUBPOENA FOR YOU)

KEEP IN MIND THAT BOTH COPIES MUST BE SIGNED AND DATED ON THE REVERSE OF THE SUBPOENA AS FOLLOWS:

- UNDER "SERVICE"

THE PERSON SERVING THE SUBPOENA DATES AND SIGNS BOTH SUBPOENAS IN THE PRESENCE OF THE SUBPOENAED WITNESS.

- UNDER "ACKNOWLEDGMENT"

THE PERSON WHO IS BEING SUBPOENAED SIGNS AND DATES BOTH SUBPOENAS IN THE PRESENCE OF THE PERSON SERVING THE SUBPOENA.

THE PERSON BEING SUBPOENAED KEEPS ONE COPY OF THE SUBPOENA IN ORDER TO HAVE NOTICE OF THE DATE, TIME AND LOCATION OF THE HEARING.

THE SECOND COPY MUST BE BROUGHT TO THE HEARING TO BE ENTERED INTO THE OFFICIAL RECORD.





NOTICE OF TELEPHONE HEARING UC APPEAL

Date Mailed: [REDACTED]

Claim Number: [REDACTED]

Determination Number: [REDACTED]

Appeal Filed By: [REDACTED]

Appeal Filed Date: [REDACTED]

Referee Office Docket: [REDACTED]

Claimant: [REDACTED]

Employer: [REDACTED]

Appearance Type: [REDACTED]

Appearance Type: [REDACTED]

Notice is hereby given to those identified above that a hearing will be held as follows on an appeal pending before the Unemployment Compensation Board of Review (Board). **THIS HEARING IS SCHEDULED FOR AT LEAST ONE PARTY TO PARTICIPATE BY TELEPHONE. THE MANNER IN WHICH YOU ARE SCHEDULED TO PARTICIPATE, BY TELEPHONE OR IN-PERSON, IS SHOWN ABOVE.**

DATE AND TIME OF YOUR HEARING:

Date: [REDACTED]

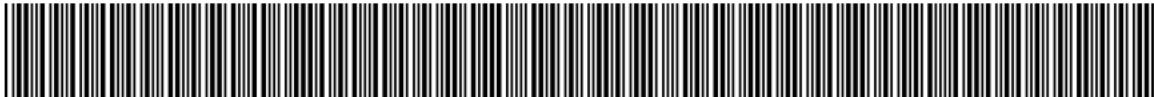
Time: [REDACTED]

HEARING LOCATION: [REDACTED]

APPEALS REFEREE: [REDACTED]

ISSUES TO BE DECIDED AT THE HEARING: [REDACTED]

*Auxiliary aids and services are available upon request to individuals with disabilities.
Equal Opportunity Employer/Program*



INSTRUCTIONS – please read carefully:**To ALL PARTIES—**

- It is the policy of the Department of Labor and Industry that the possession and/or use of any weapon, while in or on property owned or leased by the Department is prohibited, except by visiting law enforcement officers in the performance of their official duties.
- The exhibits for this hearing are included with this notice and also available for you to review on your portal in the PA UC Claims System.
- If you have documents to be entered or testified from at this hearing, you should submit the documents to the Referee Office listed above at least five (5) days BEFORE THE HEARING. Documents submitted to the Referee Office thereafter may be excluded from evidence if the Referee Office is unable to circulate the documents to all parties and representatives prior to the hearing.
- The regulations governing telephone hearings are enclosed with this notice.
- All hearings are recorded.

To EACH PARTY SCHEDULED to participate IN PERSON—

- Please report to the hearing location shown above 15 minutes prior to the designated hearing time and bring this notice, personal identification, and all related documents with you.

To EACH PARTY SCHEDULED to participate BY TELEPHONE—

- You must contact the Referee Office listed above BEFORE THE HEARING if your telephone number listed on this notice is INCORRECT or if no telephone number appears on this notice.
- ON THE HEARING DATE please be by the telephone and keep the line free at least fifteen (15) minutes before the scheduled time. Have this notice and all related documents available at that time.
- Please be advised that the referee will be calling parties on a telephone line that will not display the originating telephone number. Some telephones have the capability of blocking incoming calls for which no originating number is displayed. If your telephone blocks such calls and if you expect to participate in the hearing by telephone, **it is your responsibility to ensure that you are able to accept the call to participate in the hearing.**

All parties named on this notice have the right to be represented by counsel. See important notice below regarding representation and other information about the hearing. Each party must decide, make the necessary arrangements, and assume any expense for representation.

A copy of this hearing notice may also be provided to the Department of Labor & Industry.

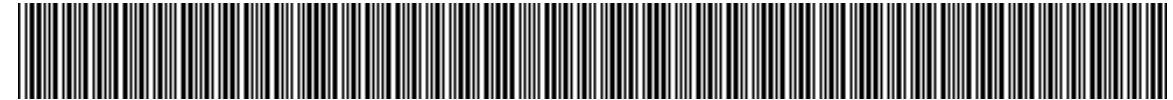
Purpose of Hearing

The referee elicits testimony and gathers all facts relating to the case and has no special or personal interest in the matter. The hearing is not a "roundtable" discussion. The referee will limit the testimony, questioning and evidence to the issues before the referee.

You should attend the hearing to protect your rights. You have the right to:

- present your testimony and evidence and testimony of any witnesses.
- question opposing parties and witnesses.
- be represented by an attorney or other advocate.





UC-53(9) REV 10-20 3 of 9

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Representation at the Hearing

You may represent yourself or you may be represented by an attorney or any other advocate of your choice throughout the appeal process.

Although hearings are informal, they involve witnesses, sworn testimony, cross-examination and rebuttals. Whether you are represented or not, the referee endeavors to develop testimony regarding the pertinent facts and conduct a fair and impartial hearing.

Preparing for the Hearing

It is your obligation to establish the facts relating to the appeal. Gather any documents you have that concern the case.

For the parties scheduled to appear at the hearing by telephone, any documents that a party desires to use or refer to during the hearing must be delivered to the referee at least five days in advance of the hearing. Documents not provided in advance may not be used or referred to during the hearing. See Board regulations at 34 Pa. Code §101.130-131.

You may have witnesses testify on your behalf. Be sure to present witnesses who have firsthand knowledge of the events. What a witness learned second-hand with some exceptions may not be used to establish a fact. You must notify your witnesses about the date, time and place of the hearing. Also, you must arrange for them to be available by phone and to provide any relevant documents prior to the hearing. To help ensure that a witness appears or provides documentary evidence, you may submit a written request in advance of the hearing to the referee for a subpoena, as outlined below.



If you wish to use audio or video evidence at the hearing, you must ensure that it is capable of being viewed at the hearing. You should also submit prior to the hearing a portable exact copy of the evidence to be entered into the record.

Do You Need Assistance? — ¿Necesita Asistencia? Póngase inmediatamente en contacto con la oficina de árbitros, llamando al número de teléfono que aparece en éste aviso.

Any interested party at an appeal hearing before the Unemployment Compensation Board of Review or one of the Board's referees must be able to deal effectively with both written evidence and oral testimony. If you require assistance because of a disability with hearing, speech and/or vision or you need an interpreter for your own language other than English, please log on to your portal at <https://benefits.uc.pa.gov> or contact the Referee Office listed on this notice as soon as possible to request assistance so you can satisfactorily participate in the hearing. The Board will provide an appropriate device or qualified interpreter whose credentials are certified for quasi-judicial proceedings, and will cover the costs required to provide this assistance.

Requests may be submitted to the referee for the items listed below. Such requests may be made directly through your <https://benefits.uc.pa.gov> account for immediate delivery. Requests not entered into the website should provide the claimant's name and the appeal number, state the action requested and include specific reasons for the request, and may be mailed, faxed, emailed, or personally delivered to the Referee's Office. **NOTE: If you elect to make a request by email, please be careful to note the exact email address appearing on this notice as you accept the risk for misdirected emails.**

- **Subpoena** —You may request that a subpoena be issued to help ensure the requested presence at the hearing. Include in your written request the exact name and title of the witness and/or the specific document(s) you require, and the reason you are requesting it. The referee will issue a subpoena if appropriate.
- **Continuance of Hearing** —If you cannot attend the hearing for any reason, you may request a continuance (postponement) of the hearing. **You should do this as soon as possible as untimely requests may be denied.** Written requests should include the specific reason for the request. The referee will grant this only for "proper cause" and upon terms that he/she deems proper. If a continuance is granted, notice of the continuance and a new Notice of Hearing will follow.
- **Withdrawal of Appeal** —If you wish to withdraw (discontinue) your appeal, you may request withdrawal. **Only** the party who filed an appeal may withdraw it, with the approval of the referee before whom the appeal is pending. **Requests for withdrawal must be made in writing.**
- **Reopening after Scheduled Hearing** —If you are prevented from attending the scheduled hearing because of a compelling reason, you may request to have the hearing reopened. **Such request must be in writing and be submitted as soon as possible.** You must set forth the specific reasons and circumstances that are alleged to constitute "proper cause" for non-appearance at the scheduled hearing. If the referee receives the request after the decision is mailed to the parties, it will be considered a request for further appeal to the Board.

NOTE: Telephone testimony will only be taken in strict compliance with the Telephone Hearing Regulations reprinted below. Please read them carefully.



REGULATIONS GOVERNING TELEPHONE HEARINGS
PA Code, Title 34
Chapter 101
Subchapter E. TELEPHONE HEARINGS

§ 101.127. Purpose and scope.

- a. In-person testimony is normally preferable to testimony by telephone; however, there can be reasons to justify receiving testimony by telephone. This subchapter is promulgated to provide the conditions under which testimony by telephone will be scheduled and received, to safeguard the due process rights of the parties, and to ensure that testimony by telephone is received under uniformly applied rules. Testimony by telephone may be received only if specifically authorized by this subchapter.
- b. When the general rules of this chapter conflict with this subchapter, this subchapter controls.

§ 101.128. Scheduling of telephone testimony.

- a. The tribunal may schedule, on its own motion, testimony by telephone of a party or witness when it appears from the record that the party or witness is located at least 50 miles from the location at which the tribunal will conduct the hearing, without regard to State boundaries.
- b. The tribunal may schedule testimony by telephone of a party or witness, at the request of one or more parties, when one of the following applies:
 1. The parties consent to the receipt of testimony by telephone.
 2. The party or witness is reasonably unable to testify in person due to a compelling employment, transportation, or health reason, or other compelling problem.
- c. Only a party or witness scheduled to testify by telephone, or identified prior to the taking of testimony in accordance with § 101.131(f) (relating to conduct of a telephone hearing), may testify by telephone, and the testimony of each other party or witness shall be received in person.
- d. The tribunal will promptly rule on a request that testimony be taken by telephone after a reasonable attempt has been made to inform the parties of the request, the basis for the request, the regulations under which telephone testimony can be taken, and the right of a party to object. The basis for the request, the position of the parties, if known, and the ruling will be documented on the record.
- e. A party or witness scheduled to testify by telephone will be permitted to testify in person.

§ 101.129. Procedures subsequent to scheduling.

- a. If a party moves to withdraw consent to the receipt of testimony by telephone prior to the taking of testimony, the tribunal will allow the withdrawal if it is found that the consent was not freely and knowingly given.
- b. An objection to the receipt of testimony by telephone shall set forth the reasons in support thereof and shall be promptly communicated to the tribunal, but may not be asserted subsequent to the taking of testimony.
- c. The tribunal will promptly rule on objections to testimony by telephone after a reasonable attempt to obtain the position of the other party. The basis for the objection, the position of the other party, if known, and the ruling will be documented on the record.



§ 101.130. Notice of testimony by telephone and use of documents.

- a. When testimony by telephone is to be taken, the tribunal will mail the notice of hearing to the parties and, if known, to their counsel or authorized agent at least 14 days in advance of the hearing. The hearing notice will indicate:
 1. The date and time of the hearing in prevailing Eastern time.
 2. The names of counsel, authorized agent, parties, and witnesses, if known, who are scheduled to appear or testify by telephone.
 3. The deadline by which the tribunal is to receive documents, if any, from all parties.
 4. The hearing will be tape recorded.
- b. When testimony by telephone is to be taken, the tribunal will send a copy of this subchapter with the notice of hearing. If the tribunal finds that an unrepresented party has not received a copy of this subchapter, a copy will be provided and the hearing will be rescheduled.
- c. A party intending to testify, to offer the testimony of witnesses, or to be represented by telephone, shall, in advance of the beginning of the hearing, supply the tribunal with the name, location and telephone number of the persons who will so appear.
- d. When scheduling a telephone hearing, the tribunal will enclose with the notice of hearing copies of the documents upon which the initial determination was based. These copies will accompany the notices of hearing to all parties, and their counsel or authorized agent, if known.
- e. When any testimony will be given from or with the aid of a document not previously distributed to the parties by the tribunal, the party expecting to introduce the document shall deliver it to the tribunal, and the tribunal shall distribute it to each other party and, if known, counsel or authorized agent before or at the beginning of the testimony. The tribunal may require that the documents be delivered up to 5 days in advance of the hearing. See § 101.131(h) (relating to conduct of a telephone hearing).

§ 101.131. Conduct of a telephone hearing.

- a. Before testimony is received, the tribunal will advise all parties of the right to object to telephone testimony and to request an in-person hearing in compliance with Subchapter B (relating to provisions governing hearings before the department or referee).
- b. A party may pursue an objection to telephone testimony at the hearing and shall set forth reasons in support thereof. If the objection is sustained, the tribunal will reschedule the hearing at a later date, either in person or by telephone, in accordance with Subchapter B or this subchapter. If the objection is not sustained, the tribunal may proceed with the hearing in accordance with this subchapter.
- c. At the start of the hearing, the tribunal will state on the record the time and telephone numbers at which the tribunal initiates the contact with any party, witness, legal counsel or authorized agent who is to testify or appear by telephone.
- d. The proceedings of the hearing will be tape recorded to preserve the record. A person testifying or appearing by telephone will be advised by the tribunal that the proceedings are being tape recorded.



- e. The tribunal will permit parties a reasonable opportunity to question other parties or witnesses testifying by telephone for the purpose of verifying the identity of the parties or witnesses. Falsification of identity may subject the parties or witnesses to prosecution and punishment.
- f. A party or witness not identified to the tribunal and all other parties before the beginning of the testimony will not be permitted to testify by telephone. Testimony taken or given in violation of this subsection will be excluded from consideration.
- g. A person may not prompt or direct the testimony of a witness testifying by telephone. Testimony taken or given in violation of this subsection may be excluded from consideration by the tribunal, with or without an objection from a party.
- h. A document not provided as required by § 101.130(e) (relating to notice of testimony by telephone and use of documents) may not be admitted nor testimony given or taken from it unless consent has been requested from and given by all parties. Testimony taken or given in violation of this subsection will be excluded from consideration, as will the document.
- i. The oath or affirmation administered to parties or witnesses testifying by telephone shall indicate that the parties or witnesses will not testify from documents that are not in the record and that their testimony will not be prompted or directed during the hearing by any other person.

§ 101.132. Representation by telephone.

The counsel or authorized agent of a party may appear at a hearing by telephone, with the approval of the tribunal.

§ 101.133. Data maintenance requirement.

The Board will compile and maintain data on the scheduling and receipt of testimony by telephone.

A translation document UC-1627 is enclosed with this notice.



INTERESTED PARTIES:

N/A



NOTICE OF TELEPHONE BOARD HEARING - REMAND

Date Mailed: [REDACTED]

Claim Number: [REDACTED]

Referee Office Docket: [REDACTED]

Appeal Filed By: [REDACTED]

Appeal Filed Date: [REDACTED]

Board of Review Docket: [REDACTED]

Claimant: [REDACTED]

Employer: [REDACTED]

Appearance Type: [REDACTED]

Appearance Type: [REDACTED]

Notice is hereby given to those identified above that a hearing will be held as follows on an appeal pending before the Unemployment Compensation Board of Review (Board). **THIS HEARING IS SCHEDULED FOR AT LEAST ONE PARTY TO PARTICIPATE BY TELEPHONE. THE MANNER IN WHICH YOU ARE SCHEDULED TO PARTICIPATE, BY TELEPHONE OR IN-PERSON, IS SHOWN ABOVE.**

DATE AND TIME OF YOUR HEARING:

Date: [REDACTED]
Time: [REDACTED]

HEARING LOCATION: [REDACTED]

APPEALS REFEREE: [REDACTED]

ISSUES TO BE DECIDED AT THE HEARING: [REDACTED]

*Auxiliary aids and services are available upon request to individuals with disabilities.
Equal Opportunity Employer/Program*



- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]



INSTRUCTIONS - please read carefully:

To ALL PARTIES—

- It is the policy of the Department of Labor and Industry that the possession and/or use of any weapon, while in or on property owned or leased by the Department is prohibited, except by visiting law enforcement officers in the performance of their official duties.
- The exhibits for this hearing are included with this notice and also available for you to review on your portal in the PA UC Claims System.
- If you have documents to be entered or testified from at this hearing, you should submit the documents to the Referee Office listed above at least five (5) days BEFORE THE HEARING. Documents submitted to the Referee Office thereafter may be excluded from evidence if the Referee Office is unable to circulate the documents to all parties and representatives prior to the hearing.
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All parties named on this notice have the right to be represented by counsel. See important notice below regarding representation and other information about the hearing. Each party must decide, make the necessary arrangements, and assume any expense for representation.

A copy of this hearing notice may also be provided to the Department of Labor & Industry.

Purpose of Hearing

The referee acts as a hearing officer for the Board and elicits testimony and gathers all facts relating to the case and has no special or personal interest in the matter. The hearing is not a "roundtable" discussion. The referee will limit the testimony, questioning and evidence to the issues designated by the Board.

You should attend the hearing to protect your rights. You have the right to:

- present your testimony and evidence and testimony of any witnesses.
- question opposing parties and witnesses.
- be represented by an attorney or other advocate.





UC-53(4) REV 10-20 4 of 11

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Representation at the Hearing

You may represent yourself or you may be represented by an attorney or any other advocate of your choice throughout the appeal process.

Although hearings are informal, they involve witnesses, sworn testimony, cross-examination and rebuttals. Whether you are represented or not, the referee endeavors to develop testimony regarding the pertinent facts and conduct a fair and impartial hearing.



Preparing for the Hearing

It is your obligation to establish the facts relating to the appeal. Gather any documents you have that concern the case.

For the parties scheduled to appear at the hearing by telephone, any documents that a party desires to use or refer to during the hearing must be delivered to the referee at least five days in advance of the hearing. Documents not provided in advance may not be used or referred to during the hearing. See Board regulations at 34 Pa. Code §101.130-131.

You may have witnesses testify on your behalf. Be sure to present witnesses who have firsthand knowledge of the events. What a witness learned second-hand with some exceptions may not be competent to establish a fact. You must notify your witnesses about the date, time and place of the hearing. Also, you must arrange for them to be available by phone and to provide any relevant documents prior to the hearing. To help ensure that a witness appears or provides documentary evidence, you may submit a written request in advance of the hearing to the referee for a subpoena, as outlined below.

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Do You Need Assistance? — ¿Necesita Asistencia? Póngase inmediatamente en contacto con la oficina de árbitros, llamando al número de teléfono que aparece en éste aviso.

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Requests may be submitted to the referee in writing for the items listed below. Such requests may be made directly through your <https://benefits.uc.pa.gov> account for immediate delivery. Requests not entered into the website should provide the claimant's name and the appeal number, state the action requested and include specific reasons for the request, and may be mailed, faxed, emailed, or personally delivered to the referee office. **NOTE: If you elect to make a request by email, please be careful to note the exact email address appearing on this notice as you accept the risk for misdirected emails.**

- **Subpoena** — You may request that a subpoena be issued to help ensure the requested presence at the hearing. Include in your written request the exact name and title of the witness and/or the specific document(s) you require, and the reason you are requesting it. The referee will issue a subpoena if appropriate.



- **Continuance of Hearing** — If you cannot attend the hearing for any reason, you may request a continuance (postponement) of the hearing. **You should do this as soon as possible as untimely requests may be denied.** Written requests should include the specific reason for the request. The referee will grant this only for "proper cause" and upon terms that he/she deems proper. If a continuance is granted, notice of the continuance and a new Notice of Hearing will follow.
- **Withdrawal of Appeal** — If you wish to withdraw (discontinue) your appeal, you may request withdrawal. **Only** the party who filed an appeal may withdraw it, with the approval of the Board. **Requests for withdrawals must be made in writing.**
- **Reopening after Scheduled Hearing** — If you are prevented from attending the scheduled hearing because of a compelling reason, you may request to have the hearing reopened. **Such request must be in writing and be submitted as soon as possible.** You must set forth the specific reasons and circumstances that are alleged to constitute "proper cause" for non-appearance at the scheduled hearing.

NOTE: Telephone testimony will only be taken in strict compliance with the Telephone Hearing Regulations reprinted below. Please read them carefully.



REGULATIONS GOVERNING TELEPHONE HEARINGS
PA Code, Title 34
Chapter 101
Subchapter E. TELEPHONE HEARINGS

§ 101.127. Purpose and scope.

- a. In-person testimony is normally preferable to testimony by telephone; however, there can be reasons to justify receiving testimony by telephone. This subchapter is promulgated to provide the conditions under which testimony by telephone will be scheduled and received, to safeguard the due process rights of the parties, and to ensure that testimony by telephone is received under uniformly applied rules. Testimony by telephone may be received only if specifically authorized by this subchapter.

b. When the general rules of this chapter conflict with this subchapter, this subchapter controls.

§ 101.128. Scheduling of telephone testimony.

- a. The tribunal may schedule, on its own motion, testimony by telephone of a party or witness when it appears from the record that the party or witness is located at least 50 miles from the location at which the tribunal will conduct the hearing, without regard to State boundaries.
- b. The tribunal may schedule testimony by telephone of a party or witness, at the request of one or more parties, when one of the following applies:
 1. The parties consent to the receipt of testimony by telephone.
 2. The party or witness is reasonably unable to testify in person due to a compelling employment, transportation, or health reason, or other compelling problem.
- c. Only a party or witness scheduled to testify by telephone, or identified prior to the taking of testimony in accordance with § 101.131(f) (relating to conduct of a telephone hearing), may testify by telephone, and the testimony of each other party or witness shall be received in person.
- d. The tribunal will promptly rule on a request that testimony be taken by telephone after a reasonable attempt has been made to inform the parties of the request, the basis for the request, the regulations under which telephone testimony can be taken, and the right of a party to object. The basis for the request, the position of the parties, if known, and the ruling will be documented on the record.
- e. A party or witness scheduled to testify by telephone will be permitted to testify in person.

§ 101.129. Procedures subsequent to scheduling.

- a. If a party moves to withdraw consent to the receipt of testimony by telephone prior to the taking of testimony, the tribunal will allow the withdrawal if it is found that the consent was not freely and knowingly given.
- b. An objection to the receipt of testimony by telephone shall set forth the reasons in support thereof and shall be promptly communicated to the tribunal, but may not be asserted subsequent to the taking of testimony.
- c. The tribunal will promptly rule on objections to testimony by telephone after a reasonable attempt to obtain the position of the other party. The basis for the objection, the position of the other party, if known, and the ruling will be documented on the record.



§ 101.130. Notice of testimony by telephone and use of documents.

- a. When testimony by telephone is to be taken, the tribunal will mail the notice of hearing to the parties and, if known, to their counsel or authorized agent at least 14 days in advance of the hearing. The hearing notice will indicate:
 1. The date and time of the hearing in prevailing Eastern time.
 2. The names of counsel, authorized agent, parties, and witnesses, if known, who are scheduled to appear or testify by telephone.
 3. The deadline by which the tribunal is to receive documents, if any, from all parties.
 4. The hearing will be tape recorded.
- b. When testimony by telephone is to be taken, the tribunal will send a copy of this subchapter with the notice of hearing. If the tribunal finds that an unrepresented party has not received a copy of this subchapter, a copy will be provided and the hearing will be rescheduled.
- c. A party intending to testify, to offer the testimony of witnesses, or to be represented by telephone, shall, in advance of the beginning of the hearing, supply the tribunal with the name, location and telephone number of the persons who will so appear.
- d. When scheduling a telephone hearing, the tribunal will enclose with the notice of hearing copies of the documents upon which the initial determination was based. These copies will accompany the notices of hearing to all parties, and their counsel or authorized agent, if known.
- e. When any testimony will be given from or with the aid of a document not previously distributed to the parties by the tribunal, the party expecting to introduce the document shall deliver it to the tribunal, and the tribunal shall distribute it to each other party and, if known, counsel or authorized agent before or at the beginning of the testimony. The tribunal may require that the documents be delivered up to 5 days in advance of the hearing. See § 101.131(h) (relating to conduct of a telephone hearing).

§ 101.131. Conduct of a telephone hearing.

- a. Before testimony is received, the tribunal will advise all parties of the right to object to telephone testimony and to request an in-person hearing in compliance with Subchapter B (relating to provisions governing hearings before the department or referee).
- b. A party may pursue an objection to telephone testimony at the hearing and shall set forth reasons in support thereof. If the objection is sustained, the tribunal will reschedule the hearing at a later date, either in person or by telephone, in accordance with Subchapter B or this subchapter. If the objection is not sustained, the tribunal may proceed with the hearing in accordance with this subchapter.
- c. At the start of the hearing, the tribunal will state on the record the time and telephone numbers at which the tribunal initiates the contact with any party, witness, legal counsel or authorized agent who is to testify or appear by telephone.
- d. The proceedings of the hearing will be tape recorded to preserve the record. A person testifying or appearing by telephone will be advised by the tribunal that the proceedings are being tape recorded.



- e. The tribunal will permit parties a reasonable opportunity to question other parties or witnesses testifying by telephone for the purpose of verifying the identity of the parties or witnesses. Falsification of identity may subject the parties or witnesses to prosecution and punishment.
- f. A party or witness not identified to the tribunal and all other parties before the beginning of the testimony will not be permitted to testify by telephone. Testimony taken or given in violation of this subsection will be excluded from consideration.
- g. A person may not prompt or direct the testimony of a witness testifying by telephone. Testimony taken or given in violation of this subsection may be excluded from consideration by the tribunal, with or without an objection from a party.
- h. A document not provided as required by § 101.130(e) (relating to notice of testimony by telephone and use of documents) may not be admitted nor testimony given or taken from it unless consent has been requested from and given by all parties. Testimony taken or given in violation of this subsection will be excluded from consideration, as will the document.
- i. The oath or affirmation administered to parties or witnesses testifying by telephone shall indicate that the parties or witnesses will not testify from documents that are not in the record and that their testimony will not be prompted or directed during the hearing by any other person.

§ 101.132. Representation by telephone.

The counsel or authorized agent of a party may appear at a hearing by telephone, with the approval of the tribunal.

§ 101.133. Data maintenance requirement.

The Board will compile and maintain data on the scheduling and receipt of testimony by telephone.

A translation document UC-1627 is enclosed with this notice.



INTERESTED PARTIES:

[REDACTED]



**FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU**

RECEIVED

Independent Regulatory Review Commission

April 16, 2025

DO NOT WRITE IN THIS SPACE

<p>Copy below is hereby approved as to form and legality. Attorney General</p> <p>Amy M Elliott  Digitally signed by Amy M Elliott DN: cn=Amy M Elliott, o=Office of Attorney General, ou=Legal Review Section, email=alelliott@attorneygeneral.gov, c=US Date: 2025.04.01 16:37:05 -04'00' BY: <u>(DEPUTY ATTORNEY GENERAL)</u></p>	<p>Copy below is hereby certified to be a true and correct copy of a document issued, prescribed or promulgated by:</p> <p>Department of Labor & Industry, Unemployment Compensation Board of Review (AGENCY)</p>	<p>Copy below is hereby approved as to form and legality. Executive or Independent Agencies.</p> <p> Digitally signed by Cynthia K. Montgomery DN: cn=Cynthia K. Montgomery, ou, email=cymontgome@pa.gov, c=US Date: 2025.02.06 09:03:05 -05'00' BY: <u>Deputy General Counsel</u></p>
<p>4/1/25</p>	<p>DOCUMENT/FISCAL NOTE NO. <u>12-120</u></p> <p>DATE OF ADOPTION: _____</p>	<p>2/6/2025</p>
<p><input type="checkbox"/> Check if applicable Copy not approved. Objections attached.</p>	<p>BY: <u>Richard W. Bloomingdale</u></p> <p>Title: <u>Chairman</u></p>	<p><input type="checkbox"/> (Chief Counsel, Independent Agency) (Strike inapplicable title)</p> <p>Check if applicable. No Attorney General approval or objection within 30 days after submission.</p>

Notice of Proposed Rulemaking

Title 34 Labor and Industry

Part VI. Unemployment Compensation Board of Review

Chapter 101. General Requirements

DEPARTMENT OF LABOR AND INDUSTRY

34 PA. CODE CH. 101

General Requirements

In accordance with section 203(d) of the Pennsylvania Unemployment Compensation Law (UC Law) (43 P.S. § 763(d)) and section 506 of the Administrative Code of 1929 (71 P.S. § 186), the Unemployment Compensation Board of Review (Board) is submitting this proposed rulemaking for the purpose of updating and modernizing its rules of process and procedures.

The Board proposes the following amendments to Chapter 101 (relating to general requirements), to read as set forth in Annex A.

Statutory Authority

This proposed rulemaking is issued under the authority provided in section 203(d) of the UC Law which authorizes the Board to adopt, amend or rescind rules of procedure related to appeals. Section 506 of the Administrative Code of 1929 provides authority for the promulgation of rules and regulations for departmental administrative boards, stating: “[T]he several departmental administrative boards and commissions, are hereby empowered to prescribe rules and regulations, not inconsistent with law, for the government of their respective departments, boards, or commissions ... [and] the distribution and performance of their business. ...”

Background

The Board is a departmental administrative board under section 203(c) of the UC Law, which provides that it “shall have all the powers and perform all the duties generally vested in, and imposed upon, departmental administrative boards and commissions” by the Administrative Code of 1929. The Board is established under sections 202, 207.1 and 503 of the Administrative Code

of 1929 (71 P.S. §§ 62, 67.1 and 183). The Board voted to adopt the proposed amendments in Annex A on January 17, 2025.

Compliance with Executive Order 1996-1, Regulatory Review and Promulgation

The Board engaged in a comprehensive effort to solicit verbal and written comments from a cross-section of interested stakeholders both before and after preparing a draft of the proposal to amend Chapter 101, as indicated below.

On January 3, 2023, the Board conducted outreach to the 19 members of the State Unemployment Compensation Advisory Council (UC Advisory Council), 10 additional stakeholders balanced among labor and business organizations, and a representative from the disability advocacy community, to provide written comments for the Board to consider during the development of a proposal to amend Chapter 101. Comments were due by February 1, 2023. A written response was received from the following 12 stakeholders.

<u>Stakeholder Name</u>	<u>Group or Employer Affiliation</u>
Barney Oursler	Mon Valley Unemployed Committee
Gina Lombardi	Liberty Lutheran
Donald Kaminski	Community College of Allegheny County
Irwin Aronson	Willig, Williams, & Davidson
Gregory Moreland	National Federation of Independent Business
Jim Dunn	Dunn Corporate Resources, LLC
John Scarpato	PA House of Representatives
Rep. Bryan Cutler	PA House of Representatives
John Pichola	UC Solutions Group
Geoff Moomaw	Interstate Tax Service, Inc.

Sharon Dietrich

Community Legal Services, Inc.

Julia Simon-Mishel

Philadelphia Legal Assistance

On February 24, 2023, the Board conducted an in-person roundtable session with Julia Simon-Mishel of Philadelphia Legal Assistance, Sharon Dietrich of Community Legal Services, Geoffrey Moomaw of Interstate Tax Services Inc., and Ed Dunn and Jim Dunn of Dunn Corporation, to facilitate a solution-based discussion from the labor and business perspectives regarding amendments to Chapter 101.

Subsequently, the Board held listening sessions at several locations throughout the state to receive additional comments from labor and business stakeholders regarding amendments to Chapter 101. The Board invited approximately 1,300 stakeholders from: 1) Members of the UC Advisory Council, 2) claimant attorneys and union representatives who attended four or more hearings since June 2021, 3) employer attorneys and tax consultants who attended four or more hearings since June 2021, 4) labor attorneys from list provided by Philadelphia Legal Assistance, and 5) tax consultants identified by the Office of UC Tax Services. The Board conducted the listening sessions from June 2023 to August 2023, as follows:

- Each of the approximately 1,300 stakeholders were sent an email invitation to attend a listening session at one of six locations, Scranton, Allentown, Harrisburg, Erie, Pittsburgh or Philadelphia.
- The Board received responses from 148 stakeholders to register for a listening session.
- Due to the low response for the Erie listening session and additional requests for a virtual session, the Erie stakeholders and other stakeholders who requested a virtual session were invited to a virtual session.

- A total of 58 stakeholders attended at least one listening session, including independent hearing representatives, representatives from Pennsylvania State Education Association, United Steel Workers, Philadelphia Legal Assistance, North Penn Legal Services, Legal Aid of Southeastern PA, Mon Valley Unemployed Committee, Interstate Tax Service, Dunn Corporation, and the PA Senate.
- Following the listening sessions, the Board invited stakeholders to submit written comments via email on or before August 10, 2023.
- The Board received 36 emails providing comments from stakeholders, including the business community and claimant representatives.
- The Board also held virtual listening sessions with internal stakeholders, including union stewards from AFSCME and SEIU 668, a staff attorney from SEIU 668, and senior employees from each UC referee office in the job classifications of UC Appeals Referee, Clerical Supervisor and Clerical Assistant. The Board advised referees and clerical workers to discuss the session with colleagues and to provide any written comments on or before September 5, 2023.
- Two Appeals Referees provided written comments.

The Board also consulted the Department of Labor and Industry's (Department) Office of UC Service Centers and Office of UC Benefits Policy to ensure implementation of the regulation was feasible, and the Department's Bureau of Workers' Compensation regarding hearing practices and procedures.

The Board prepared a proposal to amend Chapter 101, and on January 26, 2024, the Board emailed a courtesy draft of the proposal to 70 stakeholders who attended a listening session or who provided written comments and to AFSCME and SEIU 668 labor union representatives with

an opportunity for written comments due on February 26, 2024. The Department's legislative director also emailed the courtesy draft to the executive directors of the Labor and Industry Committee of the Senate and to the executive directors of the Labor and Industry Committee of the House of Representatives and provided the same opportunity for comment with a due date of February 26, 2024. The Board received comments on the courtesy draft from the following:

<u>Stakeholder Name</u>	<u>Group or Employer Affiliation</u>
Barney Oursler	Mon Valley Unemployed Committee
Julia Simon-Mishel	Philadelphia Legal Assistance
David Huang	Community Legal Services
Mallory Kennedy	SEIU 668
Alex Halper	PA Chamber of Commerce
Geoff Moomaw	Interstate Tax Service Inc
Gregory Moreland	National Federation of Independent Business
Patricia McCorkel	Hershey Entertainment and Resorts
Michael Simon	Attorney, MDSimon LTD.
Deborah Gearhart	Attorney, Krevsky Bowser Law Firm

The Board reviewed and considered the comments during the process to finalize this proposed rulemaking and revised this proposed rulemaking where appropriate.

Purpose

The purpose of this proposed rulemaking is to make Chapter 101 consistent with statutory amendments passed by the General Assembly in 2011 and 2016, and to better coordinate procedural requirements due to technological changes resulting from the Department's implementation of the Pennsylvania UC Claims System. Also, the amendments will update

terminology, improve communications, reduce further appeals and remand hearings, address existing and developing technology and codify current procedures. The amendments will respond to the large majority of stakeholders' feedback to ease the circumstances under which a party's request to participate in a hearing by remote means is permissible and allow the tribunal to operate more efficiently by scheduling and conducting hearings by remote means on its own motion in certain situations.

Summary of Proposed Rulemaking

These proposed amendments set forth the rules of practice and procedure and govern proceedings before the unemployment compensation (UC) referees and Board, including the method, content, and time requirements for filing appeals and requests, submission of evidence and access to records, notifications of hearings and decisions, and participation in hearings for first and second level appeals on UC claims.

This proposed rulemaking was prepared to update and clarify the procedures for filing appeals and conducting hearings, update names and terminology, allow for electronic filings and notifications and use of video technology, and ease the circumstances under which remote hearings are permitted. The regulation is proposed to be amended to generally replace the term "telephone" with "remote means" to encompass future technology as well as telephone hearings.

Also, the entire chapter is proposed to be amended to use gender neutral language, to correct typographical errors and to conform the regulations to the *Pennsylvania Code & Bulletin Style Manual*.

The Board proposes to substantively amend the following sections of 34 Pa. Code:

§ 101.2. Definitions

Section 101.2 (relating to definitions) is proposed to be amended to add the definitions of “agency record” and “appeal record” to improve the record upon which UC dispositions are issued and to take into account the functionality of the new UC Claims System; to add the definitions of “remote means,” “telephone” and “video conference” to broaden remote hearings from only telephone communication to include video conference and other comparable two-way telecommunication technology; and to add the definition of “Pennsylvania CareerLink® office” and remove the definitions of “employment office” and “workforce investment office” to update the regulation with current language and eliminate confusion resulting from the use of the outdated terminology.

§ 101.21. Conduct of hearings

The Board proposes to amend § 101.21 (relating to conduct of hearings) to add subsection (d) to require decorum in the tribunal’s hearings.

§ 101.24. Reopening of hearing

Section 101.24(a) (relating to reopening of hearing) is proposed to be amended to allow a party to request a reopening of a hearing record via the Pennsylvania UC Claims System and by email.

The Board also proposes to amend § 101.24(d) to clarify that if the Board fails to rule on a request for reconsideration within the time frame permitted by the General Rules of Administrative Practice and Procedure (GRAPP) and the Pennsylvania Rules of Appellate Procedure, the request will be deemed denied with or without notice to the parties.

§§ 101.31. Subpoenas and 101.32. Distance

Sections 101.31 and 101.32 (relating to subpoenas; and distance) are proposed to be amended to specifically allow witnesses to be scheduled to participate by remote means, including

witnesses for whom a subpoena is issued, and replaces an outdated and unused process to obtain such witness testimony.

§ 101.34. Failure to appear

The Board proposes to amend § 101.34 (relating to failure to appear) to reword the section's title to correlate directly with the substantive provision, which pertains to failure to comply with a subpoena.

§ 101.51. Absence of party

The Board proposes to amend § 101.51 (relating to absence of party) to place the existing language of the section in a new subsection (a) and to amend it to limit the evidence considered in cases where no party appears and no testimony is taken to competent evidence of record, and also to specifically include dismissal as a permissible disposition for appeals in which the appellant does not appear at the hearing.

Additionally, the Board proposes to add subsections (b) and (c) to § 101.51 to clarify that the referee will wait a reasonable amount of time or continue the hearing if a party notifies the referee office of the party's delay in arrival and will leave the record open for 10 minutes after the scheduled start time of hearing if any party has not yet appeared and allow a party to participate in the hearing if the party appears at the hearing before the record is closed.

§ 101.53. Notice

Section 101.53 (relating to notice) is proposed to be amended to allow notice by the referee and Board to be effectuated by mail or electronic transmission based on the party's preferred method of notification designated in the Pennsylvania UC Claims System.

§ 101.54. Records

The Board proposes an additional subsection and the reorganization of § 101.54 (relating to records). Specifically, existing subsection (a) is reserved, and its contents amended and moved to new subsection (a.2). The Board is amending this provision to clarify the period for retention of appeal records to assure the records are retained until 2 years after a decision has become final. The Board also proposes to amend this subsection to prohibit the unofficial recording of hearings and prohibit the broadcasting and taking of photographs or video images of a hearing. A new subsection (a.1) is proposed to be added to allow the UC Service Center records to be self-authenticating for the purpose of admission at a hearing.

Section 101.54(b) is proposed to be amended to clarify that the referee office will provide a copy of the appeal record, including the transcript of testimony, to a party to an appeal upon request via the method of the party's choice, hard copy by mail or soft copy by electronic means. The proposed amendment would further update the regulation to be consistent with section 504 of the UC Law (43 P.S. § 824) on providing records at cost if not used for UC purposes.

In addition, the Board proposes to add subsection (c) to § 101.54 to require a party presenting electronic evidence to be responsible to ensure the evidence is viewable to the tribunal and the opposing party. Proposed subsection (c) would also require the tribunal to schedule an in-person hearing when necessary to allow such electronic evidence to be examined by all parties.

§ 101.55. Withdrawal or discontinuance of appeal

Section 101.55 (relating to withdrawal or discontinuance of appeal) is proposed to be amended to allow the filing of a request for the withdrawal of an appeal via the Pennsylvania UC Claims System, in addition to written requests to the Board or referee office.

§ 101.61. Dismissal if filing of appeal or application for further appeal is late

The Board proposes to amend § 101.61 (relating to dismissal if filing of appeal or application for further appeal is late) to eliminate an outdated and unused process and update the regulation to be consistent with the current process for late appeals from a determination of the Department. The proposed amendments to this section would also increase the time period from 15 to 21 days to respond to the Board's notice and to request a hearing in cases when a party appears to have filed a late appeal from a referee decision to help ensure the party has sufficient time to respond and that the cause of the late appeal is considered by the Board.

§ 101.71. Copies on request

Section 101.71 (relating to copies on request) is proposed to be amended to provide that the referee or Board office will provide a copy of the appeal record, including the transcript of testimony, to a party to an appeal upon request via the method of the party's choice, hard copy by mail or soft copy by electronic means. The proposed amendment further updates the regulation to be consistent with section 504 of the UC Law on providing records at cost if not used for UC purposes.

§ 101.81. Filing of appeal from determination of Department

Section 101.81 (relating to filing of appeal from determination of Department) is proposed to be amended to update the terminology, and to improve and clarify the process to file an appeal. The proposed amendment to § 101.81(b) would add a requirement for the Board to provide instructions on the use of the Pennsylvania UC Claims System to file an appeal and to provide the email address where a written appeal may be filed. The Board is further proposing amendments to § 101.81(c) pertaining to the required contents of an appeal. Specifically, § 101.81(c)(2) is proposed to be amended to remove the requirement for an appeal to contain the claimant's entire social security number and to include the claim number or determination

number. Additionally, § 101.81(c)(5) is proposed to be amended to require the appellant to provide an email address, telephone number or additional contact information which may be used to communicate with the party or in the scheduling of a hearing. Finally, § 101.81(c)(6) is proposed to be added to provide the appellant an opportunity to make a request to participate in a hearing by remote means at the time the appellant files the appeal.

The Board proposes to add § 101.81(c.1) to allow the tribunal to consider an appeal from one determination to be an appeal from all related determinations by which the appellant is aggrieved. The programming of the Pennsylvania UC Claims System requires separate dispositions for each issue of law. This provision allows the tribunal to consider an appeal to one disposition to be an appeal to related dispositions on other issues of law if the appellant is aggrieved by the disposition on those issues and intended to appeal.

Additionally, § 101.81(d) is proposed to be amended to remove the word “form” as appeals may be filed by means other than a “form.”

§ 101.82. Time for filing appeal from determination of Department

The Board proposes to amend § 101.82(a.1) (relating to time for filing appeal from determination of Department) to specify that the tribunal will deliver notices by each parties’ preferred method of notification as designated in the Pennsylvania UC Claims System, including electronic distribution.

Section 101.82(b)(4) is proposed to be amended to allow the Board to designate other electronic transmissions in addition to email as a valid method of appeal and to broaden the determination of the date of filing for an email or other permissible electronic message appeal to include electronic mail or message to a Department email system in addition to the email system of the Department appeal office or Board. The proposed amendment would also specify the

electronic submission must be received by midnight on the last day to appeal which is consistent with the requirement of an appeal by fax transmission.

Section 101.82(b)(4.1)(ii) is proposed to be amended to specify that the evidence to be considered on a late appeal which is alleged to result from a system or technological failure of the Pennsylvania UC Claims System will not be limited to the Department records. The appellant may also submit additional testimony and evidence to be considered by the tribunal in the adjudication of the timeliness of the appeal.

Further, § 101.82(c) is proposed to be amended to require the appeal acknowledgement letter to indicate whether the appellant requested to participate in the hearing by remote means.

§ 101.83. Notification of filing of appeal

The Board proposes to add a new subsection (b) to § 101.83 (relating to notification of filing of appeal) to require the method of delivery of the appeal acknowledgement letter to be the parties' preferred method of communication, including electronic distribution, and to require the notice advise parties how to make a request to participate in a hearing by remote means.

§ 101.84. Jurisdiction of appeal

Section 101.84 (relating to jurisdiction of appeal) is amended to update the regulation to be consistent with current practice in which there are certain circumstances an appeal decision may be prepared by a referee other than the referee who conducted the hearing, and the decision may be based on the record developed by the original referee. Section 101.84(c) is proposed to be added to allow the Board to take jurisdiction of any appeal, consistent with the UC Law, and to require a hearing with written notice to parties if the record is reopened.

§ 101.85. Notice of appeal hearing

Section 101.85 (relating to notice of appeal hearing) is proposed to be amended to improve the advance notice requirements that relate to in-person Board remand hearings. The proposed amendments would increase the advance notice of a hearing from 7 to 10 days and allow less than 10 days' notice of a hearing only if both parties consent to the shorter notice.

§ 101.86. Appeal hearings

The Board proposes to amend § 101.86 (relating to appeal hearings) to enable remote hearings in accordance with Subchapter E and to remove an outdated and unused provision currently in subsection (b).

§ 101.88. Decision on original appeal

Section 101.88 (relating to decision on original appeal) is amended to add “vacate, dismiss and remand” to affirm, modify and deny as permissible dispositions of an appeal and to remove the requirement for a decision to contain the claimant’s social security number. Instead, the proposed amendment would require the claim number as part of the decision.

§ 101.89. Notice of decision

Section 101.89 (relating to notice of decision) is proposed to be amended to require the method of delivery of the tribunal’s decision to be the parties’ preferred method of notification designated in the Pennsylvania UC Claims System, including electronic delivery.

§ 101.91. Post decision changes by the tribunal

The Board also proposes to add § 101.91 (relating to post decision changes by the tribunal) to specifically allow the referee or the Board to amend the referee’s decision on their own motion if the decision has not been appealed and to require a hearing with written notice to parties if the record is reopened.

§ 101.101. Review by Board

Proposed amendments to § 101.101 (relating to review by Board) would allow the Board to transfer or take jurisdiction of an appeal and to require the Board provide notice of the removal or transfer to the parties based on the parties' preferred method of notification designated in the Pennsylvania UC Claims System, including electronic delivery.

§ 101.103. Notification of filing of application for further appeal

The Board proposes amendments to § 101.103 (relating to notification of filing of application for further appeal) to update terminology, to require appeals filed at a Pennsylvania CareerLink® Office to be forwarded to the Department or the Board, and to allow the tribunal to deliver notices by each party's preferred method of notification, including electronic distribution.

§ 101.104. Allowance or disallowance of appeal

A similar amendment is proposed for § 101.104(b) and (c) (relating to allowance or disallowance of appeal) to provide for notice by the Board based on each party's preferred method of notification designated in the Pennsylvania UC Claims System. The Board proposes further amendments to § 101.104(c), to specify that it is the Board who determines all questions as to the admissibility of evidence in the appeal record.

Amendments are proposed to § 101.104(c)(3) and (4) to provide additional circumstances under which a further appeal will be allowed and additional evidence required.

In addition, § 101.104(e) is proposed to be amended to extend the time allowed for submitting written argument to the Board from 7 to 14 days from the date of the request for any further appeal, with or without a remand hearing, and to remove the requirement to provide five copies of the written brief.

§ 101.105. Notice of hearing

Section 101.105 (relating to notice of hearing) is proposed to be retitled and amended to improve the advance notice requirements that relate to in-person Board remand hearings. Specifically, the amendments would increase the advance notice of a remand hearing from 7 to 10 days and allow less notice of a remand hearing only if both parties consent to the shorter notice. This section is also proposed to be amended to clarify that the tribunal will provide specified additional information on a Board remand hearing notice, including whether the hearing will be held in person or by remote means, and the specific issues to be covered at the hearing.

§ 101.106. Scope of review

The Board is proposing an amendment to § 101.106 (relating to scope of review) to add an appeal to the determination of the Department to the provision governing the Board's scope of review consistent with section 504 of the UC Law and § 101.84.

§ 101.107. Issues considered on appeal

Section 101.107(a) and (b) (relating to issues considered on appeal) are proposed to be amended to add “the findings of fact” to clarify that the findings of fact, as found by the tribunal, must be supported by the record. In addition, § 101.107(b) is proposed to be amended to replace “with the approval of the parties” with “notice to” because notice, rather than approval, is the required standard.

§ 101.108. Appeal hearings

The Board proposes to amend § 101.108 (relating to appeal hearings) to require a Board remand hearing to be held at a location or by a means in accordance with the regulatory requirements for other appeal hearings, including remote hearings.

§ 101.109. Decision of Board

Section 101.109 (relating to decisions of Board) is proposed to be amended to codify current practice by adding vacate and remand to affirm, modify and reverse as permissible dispositions of an appeal.

§ 101.110. Notice of decision of Board

The Board proposes to amend § 101.110 (relating to notice of decision of Board) to clarify that the Board will notify parties of the Board's decision based on each party's preferred method of notification designated in the Pennsylvania UC Claims System.

§ 101.111. Reconsideration by Board

Section 101.111 (relating to reconsideration by Board) is proposed to be amended to codify GRAPP on requests for reconsideration of a Board decision. The proposed amendment is intended to clarify that if the Board fails to rule on a request for reconsideration within the time period specified in § 101.24(d) (relating to reopening of hearing), the request is deemed denied regardless of whether notice is provided and that the request for reconsideration by an aggrieved party will not extend the appeal period for the party to file a further appeal to the Commonwealth Court.

§ 101.113. Post decision changes by the Board

The Board proposes to add § 101.113 (relating to post decision changes by the Board) to specifically allow the Board to amend its decision on its own motion if the decision has not been appealed and to require a hearing with written notice to parties if the record is reopened.

Subchapter E

The Board proposes to amend the title of Subchapter E (relating to telephone hearings) to refer instead to remote hearings.

§ 101.127. Purpose and scope

Section 101.127(a) (relating to purpose and scope) is proposed to be amended to remove the statement that an in-person hearing is normally preferable to a telephone hearing and to provide a statement on the Board's intent which is to allow any party to choose whether to attend a hearing in-person or by remote means, with few exceptions. The proposed amendment affirms a party's entitlement to an in-person hearing.

§ 101.128. Scheduling of telephone testimony

Section 101.128(a) (relating to scheduling of telephone testimony) is proposed to be retitled as "scheduling of remote hearings or testimony" and amended to allow the tribunal to schedule remote hearings on its own motion under certain circumstances, such as distance of a party or witness from the hearing location, health and safety concerns, timeliness of the hearing, and due to a disaster or another emergency and in situations where the parties consent to a remote hearing.

The Board further proposes to amend § 101.128(b) to remove the requirement for a party to have a compelling reason to obtain a remote hearing upon request and requires the tribunal to approve a party's request for a remote hearing except where an in-person hearing is required due to the opposing party's objection or other specific circumstances when an in-person hearing is necessary to ensure a fair hearing.

In addition, § 101.128(c) is proposed to be deleted and subsections (d) and (e) are proposed to be amended to provide notice to parties how to object to a hearing which is scheduled to be held by remote means and to allow a party scheduled for a remote hearing to appear in person provided they give timely notice to the tribunal.

The Board proposes to add a new subsection, § 101.128(f), to provide the tribunal with discretion to determine whether to schedule and allow one party to participate by a different

method of remote means than another party or whether to schedule or allow one party to appear in-person while the opposing party participates by remote means.

§ 101.129. Procedures subsequent to scheduling

Section 101.129 (relating to procedures subsequent to scheduling) is proposed to be amended to refer to participation by remote means, instead of by telephone.

§ 101.130. Notice of testimony by telephone and use of documents

A new title and comprehensive amendments are proposed to § 101.130 (relating to notice of testimony by telephone and use of documents), as follows. The Board proposes to rename the section “notice of hearing with testimony by remote means and use of documents.” Section 101.130(a) is proposed to be amended to allow the tribunal to distribute hearing notices and documentary evidence to parties and authorized representatives based on each party’s preferred method of communication in the Pennsylvania UC Claims System, including electronic delivery.

The Board proposes to amend § 101.130(a)(2) to remove the requirement to list witnesses on the hearing notice as witness names are generally not known until the hearing begins and is consistent with the Board’s procedure which is to list only the parties, counsel and authorized agents on the hearing notice.

Section 101.130(a)(3) is proposed to be amended to improve the submission and circulation of evidence for remote hearings by clarifying that the Board will provide notice of the method to provide documents or other evidence to the tribunal in addition to the deadline to provide such evidence for a remote hearing.

The Board proposes to add § 101.130(a)(3.1) to require the hearing notice to specify the means by which all parties are scheduled to participate in a remote hearing.

Section 101.130(a)(3.2) is proposed to be added to clarify that the Board will provide instructions for participating in a remote hearing on the notice of hearing and elsewhere such as on the Board’s webpage and will provide a method for the parties to obtain assistance if needed for remote participation. The proposed subsection would provide notice to parties on how to object to a hearing which is scheduled to be held by remote means, how to request to participate in an in-person hearing and the method to provide their telephone number or other contact information on the notice of hearing.

The Board proposes to amend § 101.130(a)(4) to update the regulation to allow the hearing to be recorded by means other than “tape” recording, to allow the current method used by the Board which is digital recording.

Section 101.130(b), which requires the tribunal to distribute the regulations governing remote hearings to parties with the hearing notice, is proposed to be amended to allow a hearing to proceed if a party does not receive the regulations with the hearing notice but does receive the regulations prior to the taking of testimony, unless a party objects.

Section 101.130(c) is proposed to be amended to require parties to provide other necessary contact information in addition to the telephone number of persons who will appear at a hearing remotely.

The Board proposes to amend § 101.130(d) to clarify that the tribunal will pre-mark exhibits that are distributed to parties for remote hearings.

Section 101.130(e) retains the tribunal’s authority to require documents to be submitted to the tribunal up to 5 days in advance of a remote hearing but is proposed to be amended to allow evidence that is not provided to the tribunal within the required timeframe to be included in the

appeal record if it has been distributed and is viewable to the parties and counsel prior to the taking of testimony from the document.

§ 101.131. Conduct of a telephone hearing

The Board proposes renaming this section “conduct of a hearing by remote means.” The Board also proposes comprehensive amendments to § 101.131. Specifically, § 101.131(a) is proposed to be amended to specify all parties have the right to request an in-person hearing.

Section 101.131(c) is proposed to be amended to remove the requirement for the referee to initiate contact for remote hearings and instead to allow parties to directly access remote hearings via conference call. This provision would also be amended to require the tribunal to fully develop the record with the method the tribunal used to contact or attempted to contact or instructed individuals to participate in a hearing.

The Board also proposes to amend § 101.131(d) to allow the hearing to be recorded by means other than tape recording and allow digital recording which is the current means used by the tribunal.

Subsections (e) and (i) are proposed to be amended to require an identification oath for remote hearings and to allow cross examination to verify or challenge the identity of a party or witness appearing by remote means.

The Board proposes to amend § 101.131(f), which prohibits a party or witness not identified before the beginning of testimony from testifying in remote hearing, to allow such person to testify if the opposing party consents.

Section 101.131(h) is proposed to be amended to clarify that the tribunal will include documentary evidence in the appeal record even if the evidence was not admitted into the record

and append to the record the reason the evidence was not admitted so that it is subject to review on further appeal.

The Board proposes to add § 101.131(j) to provide a process if a party is disconnected from a remote hearing by requiring the referee to attempt to reconnect the party and prohibiting the referee from closing the record until 10 minutes has passed after a party is disconnected. This proposed provision would clarify that the tribunal will state on the record information regarding the tribunal's attempts to connect or reconnect a party or witness to the hearing so that it is subject to review on further appeal.

§ 101.132. Representation by telephone

Finally, the Board proposes to rename and amend § 101.132 (relating to representation by remote means) to allow representation by remote means for a party who is also appearing by remote means and to allow the referee discretion on representation in other situations.

Affected Persons

The persons affected by these proposed amendments include UC claimants and their former employers if either party appeals the UC Service Center's initial determination of eligibility or ineligibility. The number of UC claimants and employers affected will vary based on the rate of unemployment each year. For example, in 2023, a party (either the claimant or the employer) filed an appeal of the initial determination of eligibility or ineligibility in approximately 100,000 claims for UC benefits. Most of these appeals involved businesses, including small businesses, and some involved attorneys, tax consultants, or other representation.

Fiscal Impact

There is no cost to the regulated community as a result of this proposed rulemaking. This proposed rulemaking will have significant positive fiscal impact on UC claimants, employers, legal counsel, and non-attorney representatives involved in the appeal process, as well as on the Board as it administers the appeal process. UC claimants, employers, and their representatives will see a substantial savings in time and travel costs through the increase in participation in appeal hearings by remote means. The tribunal will also see cost savings through the increased use of remote hearings and the reduction of remand hearings. Also, the enhanced communications through electronic delivery of filings and notices will reduce mailing costs for all parties and the Board.

Reporting, Recordkeeping and Paperwork Requirements

This proposed rulemaking will not change, or impose new, reporting, record keeping or paperwork requirements on the regulated community. Existing electronic UC appeal reports may be amended by the Board to acquire data to monitor and report on the usage and effectiveness of the changes to Board's processes and procedures in this proposed rulemaking. No new forms are required; however, this proposed rulemaking will require minor revisions to existing forms and to the Board's website.

Sunset Date

No sunset date is necessary for these amendments. The Department will continue to monitor the impact and effectiveness of the regulations.

Effective Date

These proposed amendments will be effective upon publication of the final-form regulation in the Pennsylvania Bulletin.

Contact Person

Interested persons are invited to submit written comments, suggestions or objections regarding these proposed amendments to Melissa Trambley, UC Appeals System Administrator, preferably by electronic mail to RA-LIUCBR-RECCOMM@pa.gov, or by postal mail to Unemployment Compensation Board of Review, ATTN: Proposed Rulemaking, 651 Boas Street, Room 1114, Harrisburg, PA 17121, within 30 days of publication in the *Pennsylvania Bulletin*.

Regulatory Review

Under section 5(a) of the Regulatory Review Act, 71 P.S. § 745.5(a), on April 16, 2025, the Board submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the chairperson of the Labor and Industry Committee of the Senate and to the chairperson of the Labor and Industry Committee of the House of Representatives. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to this proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections must specify the regulatory review criteria in section 5.2 of the Regulatory Review Act (71 PS. § 745.5b) which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the proposed rulemaking, by the Board, the General Assembly and the Governor.

Richard Bloomingdale
Chairman

Annex A

TITLE 34. LABOR AND INDUSTRY

PART VI. UNEMPLOYMENT COMPENSATION BOARD OF REVIEW

CHAPTER 101. GENERAL REQUIREMENTS

Subchapter A. GENERAL PROVISIONS

§ 101.1. Scope.

This part sets forth special rules of practice and procedure and governs proceedings before the Board.

§ 101.2. Definitions.

The following words and terms, when used in this part, have the following meanings, unless the context clearly indicates otherwise:

Agency record - For purposes of an appeal from a determination of the Department, the agency record is a paper or electronic file of records from the Department unemployment compensation office which includes the following:

(i) A record of the date of the application for benefits, the benefit year ending date, and the claim weeks filed.

(ii) The determination of the Department under appeal.

(iii) Case notes or a record of actions taken on a claim and communications between the Department and the parties related to the determination under appeal.

(iv) The appeal.

(v) The envelope or other documents showing the date and manner of submission of the appeal.

(vi) The records upon which the initial Department determination was based including:

(A) Relevant documents submitted by the involved parties.

(B) Department fact finding records.

(vii) Any related decision or order of the Department, referee, or Board.

(viii) Any related and relevant Department records within the Pennsylvania UC Claims System.

Appeal record – The appeal record consists of the following:

(i) The agency record.

(ii) Documents submitted to the tribunal by involved parties and their counsel or authorized agent for consideration in an appeal that were:

(A) Uploaded to the Pennsylvania UC Claims System prior to the hearing or hearings.

(B) Admitted into the record at the hearing or hearings before the tribunal.

(iii) Any related decision or order of the referee.

(iv) Any further appeal.

(v) The envelope or other documents showing the date and manner of submission of the further appeal.

(vi) The transcript of testimony taken at the hearing or hearings.

(vii) Any party briefs.

(viii) Any related decision or order of the Board.

(ix) Any request for reconsideration and the ruling thereon.

Board—The Unemployment Compensation Board of Review.

Day—A calendar day.

Department—The Department of Labor and Industry of the Commonwealth.

Department appeal office—A Department office responsible for unemployment compensation where an appeal may be filed and accepted, according to the Department-provided instructions accompanying a determination.

[*Employment office*—A public employment office or branch thereof, operated by the Department or by another state or by the Federal Government under agreement with the Department.]

Party—The Department, the claimant, the last employer of the claimant and another employer affected by the appeal proceedings.

Pennsylvania CareerLink® office— An office or its successor agency office where the Department provides employment services under the Wagner-Peyser Act (29 U.S.C.A. §§ 49-49l-2) and the Workforce Innovation and Opportunity Act (29 U.S.C. §§ 3101-3361) or similar or successor statutes.

Pennsylvania UC Claims System—The Department's information technology system of record for the filing, management and processing of unemployment compensation claims and appeals.

Personal delivery—Delivery by or on behalf of a party that is not enumerated in § 101.82(b)(1)—(4.1) (relating to time for filing appeal from determination of Department)

where a person personally files the appeal at a Board office or [workforce investment] Pennsylvania CareerLink® office.

Referee—A referee of the Board.

Remote means – The use of telephone, video conference or other comparable two-way communication technology to conduct activities without a common physical hearing location.

Telephone - As used in section 505 of the Unemployment Compensation Law (43 P. S. § 825), “telephone” means any two-way electronic telecommunication device for sending or receiving voice, sound, data, or video transmissions including telephone, video conference or other comparable two-way communication technology.

Tribunal—The Board or one of its referees.

Video conference – A virtual meeting held over electronic communication devices that simulates a face-to-face meeting with at least one party participating remotely.

[Workforce investment office—An office where the Department provides employment services under the Wagner-Peyser Act (29 U.S.C.A. §§ 49—49m). A workforce investment office may be identified as a Team Pennsylvania CareerLink.]

Subchapter B. PROVISIONS GOVERNING HEARINGS

BEFORE THE DEPARTMENT OR REFEREE

HEARINGS

§ 101.21. Conduct of hearings.

(a) In a hearing the tribunal may examine the parties and their witnesses. [Where] If a party is not represented by counsel, the tribunal before whom the hearing is being held should advise

[him as to his rights, aid him] **the party of their rights, aid the party** in examining and cross-examining witnesses, and give [him] **the party** every assistance compatible with the impartial discharge of its official duties.

(b) The tribunal **[shall] will** determine the order in which the evidence **[shall be] is** presented in hearings. Within the discretion of the tribunal, the parties **[shall be permitted to] may** present evidence and testimony which they believe is necessary to establish their rights.

(c) Hearings under this part **[shall] will** be open to the public, subject to the availability of suitable and reasonable facilities. However, the tribunal conducting a hearing may close the hearing as to other than interested parties to the extent necessary to protect the interests and rights of the claimant or employer to a fair hearing.

(d) All parties, witnesses, legal counsel, authorized agents and observers present at a hearing shall conduct themselves in a manner consistent with the standards of decorum commonly observed in any court. If such decorum is not observed and an individual engages in violent, disorderly or contemptuous conduct that is disruptive to the proceeding, the tribunal may, after warning the individual, remove the individual from the hearing and deny any further participation in the hearing.

§ 101.22. Consolidated hearings.

When the same or substantially similar evidence is relevant and material to the matters at issue in the petition for appeal concerning claims filed by more than one individual or, in multiple appeals, filed by single individuals or their authorized representatives, the same time and place for considering each appeal and claim may be fixed; hearings thereon jointly conducted; a single record of the proceedings made; and evidence introduced with respect to an appeal or claim

considered as introduced with respect to appeals or claims if, in the judgment of the Board or referee having jurisdiction of the proceeding, such consideration will not be prejudicial to any party.

§ 101.23. Continuance of hearing.

- (a) Continuance of a hearing will be granted only for proper cause and upon the terms as the tribunal may consider proper. The inability of a party to attend a hearing because [he] the party received less than 7 days days' notice will be considered proper cause for continuance of a hearing.
- (b) Within the discretion of the tribunal, a continuance will not, however, be granted merely because of the absence of a witness, unless it appears that the testimony and evidence [he] the witness could give would be competent and relevant to the issues involved and that the information is essential to a proper determination of the case.

§ 101.24. Reopening of hearing.

- (a) If a party who did not attend a scheduled hearing subsequently gives written notice, which is received by the tribunal prior to the release of a decision, and it is determined by the tribunal that [his] the party's failure to attend the hearing was for reasons which constitute "proper cause," the case [shall] will be reopened. Requests for reopening, whether made to the referee or Board, shall be in writing; shall give the reasons believed to constitute "proper cause" for not appearing; and [they] shall be entered into the Pennsylvania UC Claims System, sent by electronic mail (email) to the tribunal at the email address shown on the notice of hearing or delivered or mailed[—preferably] to the tribunal at the address shown on the notice of hearing or to the [Unemployment Compensation Board of Review, Labor and Industry

Building, Seventh and Forster Streets, Harrisburg, Pennsylvania 17121, or to the local employment office where the appeal was filed] **Department of Labor and Industry, Unemployment Compensation Board of Review, 651 Boas Street, Room 1119, Harrisburg, Pennsylvania 17121.**

(b) A request for reopening which is received by the referee before [his] the decision has been issued to the parties [shall] will be decided by the referee before whom the case is pending. If the request for reopening is allowed, a new hearing [shall] will be scheduled with written notice thereof to each of the parties. At a reopened hearing, the opposing party shall be given the opportunity to object to the reopening [if he so desires]. If the request for reopening is denied, the referee [shall] will append to the record the request, supporting material and the ruling on the request, so that it [shall be] is subject to review on further appeal.

(c) A request for reopening the hearing which is not received before the decision was issued, but is received or postmarked on or before the 21st day after the decision of the referee was issued to the parties, [shall constitute] will be treated as a request for further appeal to the Board and a reopening of the hearing, and the Board will rule upon the request. If the request for reopening is allowed, the case will be remanded and a new hearing scheduled, with written notice thereof to each of the parties. At a reopened hearing, the opposing party [shall] will be given the opportunity to object to the reopening [if he so desires]. If the request to have the hearing reopened is denied, the Board will append to the record the request, supporting material and the ruling on the request, so that it [shall be] is subject to review in connection with any further appeal to the Commonwealth Court.

(d) If a request for reopening is not received before the decision was issued but is received or postmarked within 15 days after the decision of the Board was issued to the parties, it will be

accepted as a request for reconsideration and a reopening of the hearing [and the Board will rule upon the request]. If the request for reconsideration and reopening is allowed, the Board may rule on the record previously made or the Board [will] may vacate its decision and remand the case for further hearing, with written notice thereof to each of the parties. At a reopened hearing, the opposing party [shall] will be given the opportunity to object to the reopening [if he so desires]. If the request to have the hearing reopened is denied, the Board will append to the record the request, supporting material, and the ruling on the request, so that it [shall be] is subject to review in connection with any further appeal to the Commonwealth Court. If the Board fails to rule on the request for reconsideration within the time frame permitted by the General Rules of Administrative Practice and Procedure at 1 Pa. Code § 35.241 (relating to application for rehearing or reconsideration) and the Pa.R.A.P. 1701(b)(3) (relating to effect of appeal generally), the request will be deemed denied with or without notice to the parties.

WITNESSES

§ 101.31. Subpoenas.

The issuance of subpoenas to compel the attendance of witnesses and the production of books, papers, correspondence, memoranda and other records and documents, may be obtained on application to the [Board, referee, or at any local employment office] Board or referee office. In no case may a subpoena be issued to require the appearance of a witness before the tribunal unless [his residence is within 100 miles of the place fixed for his appearance] the witness's residence is within 50 miles of the site of the hearing or the witness is scheduled to appear by remote means.

§ 101.32. Distance.

When the testimony of a witness whose residence is more than [100] 50 miles from the place of hearing is deemed necessary, the referee [before whom the hearing is being held may submit to the referee whom the witness can more conveniently appear, questions propounded by the parties to the appeal proceeding for the purpose of receiving the testimony of that witness] shall permit the witness to present testimony by remote means subject to the provisions of Subchapter E (relating to remote hearings). [The referee to whom such questions are referred shall schedule a hearing and, if necessary, subpoena before him the witness by whom the questions are to be answered.]

§ 101.33. Expenses.

(a) A witness required by subpoena to attend a hearing before the tribunal [shall be allowed] is entitled to witness fees and mileage at the rate fixed by the Department. The fees and mileage [shall] must be approved by the tribunal before whom the witness was required to appear.

(b) In the hearing of each case, the tribunal [shall] will list the names and addresses of witnesses who appeared at the hearing, together with the witness fee and the mileage allowed each witness. In each case the fees and expenses for witnesses properly subpoenaed [shall] will be included as part of the expense of the appeal proceeding under section 506 of the Unemployment Compensation Law (43 P. S. § 825).

§ 101.34. Failure to [appear]comply with a subpoena.

(a) When a person refuses, fails or neglects to comply with a subpoena issued under the Unemployment Compensation Law (43 P. S. § 826), or refuses, fails or neglects to produce books, papers, correspondence, memoranda or other records and documents, a party to the appeal

proceedings may request the Board to petition a Court of Common Pleas having jurisdiction to require the person subpoenaed to appear and give testimony and to produce the books, papers, correspondence, memoranda or other records and documents described in the subpoena.

(b) The request to the Board shall be in writing and shall set forth the facts as to the issuance and service of the subpoena, including a description of the books, papers, correspondence, memoranda or other records and documents as contained in the subpoena, and a statement as to the residence and present whereabouts of the person subpoenaed. The Board will give notice by mail to the person alleged to have refused, failed or neglected to comply with the subpoena, and unless, within 5 days after the mailing of the notice, **[he shows cause why he did not] the person shows cause for failing to** comply, the Board may proceed to compel such compliance as provided in this part.

COUNSEL

§ 101.41. Approval of counsel fees.

(a) Under section 702 of the Unemployment Compensation Law (43 P. S. § 862), an individual claiming compensation in a proceeding before the Board or referee, may be represented by counsel or other authorized agent. Ordinarily, the amount of the fee for the service may be agreed upon between the claimant and counsel or authorized agent. However, if an issue is raised as to the amount of the fee, a petition or other written communication may be filed with the Board setting forth in detail the nature and extent of the services rendered to the claimant, the amount of benefits to which the claimant was potentially entitled at the beginning of the current benefit year, and the amount of compensation obtained by the claimant.

(b) In connection with the consideration of a petition or other written communication that raises an issue as to the amount of the fee for services rendered, the Board will apply the rule that the fee charged or received for the service may not exceed 5% of the amount of benefits to which the claimant was potentially entitled at the beginning of [his] the current benefit year, except that in mass or token appeal proceedings involving multiclaimants, if an issue is raised as to the amount of the fee, the Board reserves within its discretion the right to determine the amount of the fee to be approved, which will depend upon the circumstances prevailing with regard to the particular proceeding.

(c) The Board will make an order upon a petition or other written communication without a hearing. Notice of an order will be served upon both the claimant and counsel or authorized agent. The order will become final 10 days after the mailing of the notice thereof, unless objections to the order are filed. Objections to the order will be disposed of and decided in such manner as the Board may prescribe.

PROCEDURE

§ 101.51. Absence of party.

(a) If a party notified of the date, hour and place of a hearing fails to attend a hearing without proper cause, the hearing may be held in [his] their absence. If the appellant fails to appear for the hearing, the tribunal may take action it deems appropriate, including dismissal of the appeal. In the absence of all parties, the decision may be based upon the [pertinent available records] competent evidence of record or the appeal may be dismissed. [The tribunal may take such other action as may be deemed appropriate.]

(b) If a party notifies the tribunal prior to the beginning of a hearing that they are delayed, the tribunal will provide the party a reasonable amount of time to arrive or continue the hearing provided the delay or continuance does not prejudice another party.

(c) If a party is absent from a hearing, the tribunal will leave the record open for at least 10 minutes after the time scheduled for the hearing to begin. A party who appears at the hearing before the hearing has ended and before the record is closed by the tribunal, will be permitted to participate.

§ 101.52. Investigations.

(a) [Where] When, in the determination of an appeal, the report of an investigation is to be used adversely to the interests of any party, the report, if objected to, may not be introduced as evidence and considered in the disposition of the appeal unless a continued hearing has been held at which the persons who furnished the information contained in the report appeared and the party adversely affected was afforded an opportunity for cross-examination and rebuttal. If the person who furnished the information appears but the party adversely affected fails to appear, the latter shall be deemed to have been afforded a reasonable opportunity for cross-examination and rebuttal.

(b) The tribunal may continue the hearing of an appeal and make an investigation either in person or through an investigator or other designated person when the hearing has failed to produce sufficient evidence to establish adequate findings as to the material facts or where there is reason to doubt the reliability of the evidence submitted, and when efforts to compel the attendance of the party or witness whose evidence is desired have failed. Information obtained in

this manner shall be introduced into the record of evidence only under the same conditions (applicable to other investigations) as prescribed in subsection (a).

§ 101.53. Notice.

Mailing of notices, orders or decisions of a referee, or of the Board to the parties at their last known addresses, or issuance by electronic transmission **[when permitted by law and this chapter, as furnished by the parties to the referee, the Board or the Department], based on the party's preferred method of notification designated in the Pennsylvania UC Claims System,** shall constitute notice of the matters therein contained.

§ 101.54. Records.

(a) [The proceedings of appeal hearings, at both referee and Board levels shall be recorded and preserved for a period of 2 years. The record need not be transcribed unless a further appeal is filed. In the event an application for further appeal is filed from the decision of a referee, the record shall be transcribed and transmitted to the Board, together with records and documents in the appeal proceeding. At any time the Board may require the complete record of a case, or a part thereof, to be transcribed and filed with the Board] {Reserved}.

(a.1) The records of the Department are deemed self-authenticating for the purpose of admission under the Pennsylvania Rules of Evidence.

(a.2) The proceedings of appeal hearings, at both referee and Board levels will be recorded by the tribunal and preserved for a period of 2 years after the date of the final decision. The tribunal's recording of the proceeding is the official record and no other recording, broadcasting, photographs or other audio or video imaging of the proceeding will be permitted. The recording of the hearing need not be transcribed unless a further appeal is

filed. In the event an application for further appeal is filed from the decision of a referee, the recording of the hearing shall be transcribed and transmitted to the Board, together with the appeal record. At any time, the Board may require a recording of a hearing to be transcribed and the appeal record of a case, or a part thereof, to be filed with the Board.

(b) When an interested party or [his representative] the party's counsel or authorized agent requests information from the [file of the Board] appeal record in order to present and maintain the issues at a hearing before a referee or the Board, or in an appeal to the Court, such information (including the hearing transcript, [where] when the record has been transcribed) [shall] will be provided without charge in written or electronic format, whichever the party prefers, or made available at a reasonable time to the party and [his representative, without charge,] the party's counsel or authorized agent for examination and copying at the office of the referee to whom the case was assigned, or at the central office of the Board in Harrisburg, Pennsylvania, whichever is more convenient to the interested party or [his representative for examination, copying and making notations therefrom] their counsel or authorized agent. [An examination of the file shall be permitted only for purposes relating to the Unemployment Compensation Law (43 P. S. §§ 751—882) and for no other proceeding or purpose.] An unabridged transcript and audio recording of the testimony will be made available at cost, if not used for unemployment compensation purposes or a subsequent appeal, to the parties and their attorneys or other representatives upon written request to the Board.

(c) A party who seeks to enter into evidence an audio or video recording, or other electronically stored record, shall be responsible for ensuring that the recording or other electronically stored record is accessible to the tribunal and other parties. The party

offering the record shall provide a copy of the electronic record for admission to the appeal record. If the electronic record provided by a party is not in a format accessible to the tribunal, the tribunal will request the party provide the electronic record in the required format and the party shall provide it in the required format within the time set by the tribunal to allow review if further appeal proceedings occur. The tribunal will schedule an in-person hearing if necessary to allow the review of the contents of the record. If the party offering the record fails to produce the equipment necessary to review the record or if the record is not readable or accessible, the tribunal may exclude the record from consideration.

§ 101.55. Withdrawal or discontinuance of appeal.

A party who has filed an appeal may withdraw and discontinue it with the approval of the tribunal before whom the appeal is pending. [Forms for withdrawal of appeal may be obtained from the office of the Board, a referee or a local employment office] A request to withdraw an appeal may be filed on the Pennsylvania UC Claims System or by a written request to the Board or referee office.

DISMISSAL AND DISQUALIFICATION

§ 101.61. Dismissal if filing of appeal or application for further appeal is late.

(a) If an appeal from a decision of the Department [or an application for further appeal] appears to have been filed beyond the applicable time limit, the [tribunal shall advise the appealing party in writing that it appears not to have a jurisdiction because of the late filing, and that the appeal or application for further appeal will be dismissed without a hearing unless the appealing party notifies the tribunal in writing within the succeeding 15 days from the date of such notice, that he contends the appeal or application for further

appeal was timely filed and that he desires a hearing. If no reply from the appealing party is received within the 15-day period, or if the appealing party does not request a hearing, the tribunal shall dismiss the appeal or application for further appeal.] referee will schedule a hearing on the timeliness issue alone, or on both the timeliness issue and the merits. After the hearing, if it appears to the referee that the appeal was timely filed, and the merits were not addressed in the hearing, the referee will schedule a hearing on the merits. If the referee finds that the appeal was timely filed, a decision will be issued on both the timeliness of the appeal and on the merits of the case. If the referee finds that the appeal was not timely filed, the referee will issue a decision only on this issue.

(b) [If an appeal has been filed from a decision of the Department, which appears to have been filed beyond the applicable time limit, and a request for a hearing is received within the 15-day period, the case shall be assigned to a referee for hearing on the issue of the timeliness of the appeal, and on the merits, if it appears that the appeal was in fact timely filed. Notice of the hearing will be mailed to the last known post office address of each interested party. If the referee finds that the appeal was not timely filed, he shall issue a decision only on this issue. If the referee finds that the appeal was timely filed, he shall issue a decision not only on the issue of timeliness of the appeal, but also on the merits of the case.] {Reserved}.

(c) If an appeal has been filed from a decision of the referee, which appears to have been filed beyond the applicable time limit, the Board will advise the appealing party in writing that it appears not to have jurisdiction because of the late filing, and that the appeal will be dismissed without a hearing unless the appealing party notifies the tribunal in writing within the succeeding 21 days from the date of such notice, that the party requests

a hearing on the timeliness issue. If [an application for further appeal has been filed, which appears has been filed beyond the applicable time limit, and] a request for a hearing is received by the Board within [such 15] this 21-day period, the case [shall] **will** be assigned to a referee to conduct a hearing for and on behalf of the Board on the issue of the timeliness of the application for further appeal, and on [the merits, if it appears that the appeal was in fact timely filed] **any other issues deemed necessary by the Board.** [Notice of the hearing shall be mailed to the last known post office address of each interested party. If the Board finds that the application for further appeal was not timely filed, the Board will issue a decision only on this issue.] If **it appears to the Board** [the Board finds] that the application for further appeal was timely filed, [the Board will proceed to either allow or disallow the application for further appeal, and notification thereof shall be mailed to the last known post office address of each interested party. If the application for further appeal is allowed,] the Board will proceed to review the [established] **appeal record and determine if any other hearings are necessary.** Thereafter, if the Board finds that the appeal was timely filed, the Board will issue [and render] a decision on **both the timeliness and** the merits of the case. **If the Board finds that the appeal was not timely filed, the Board will issue a decision only on this issue.**

§ 101.62. Disqualification to participate in hearing or decision.

(a) [No]A referee, member of the Board or [employe] **employee** of the Department [shall] **may not** participate in the hearing or determination of any case in which [he himself is] **they are** an interested party. The Board will designate an alternate to serve in the absence or disqualification of any referee.

(b) A referee or member of the Board may be challenged at any time by an interested party prior to the disposition of an appeal by the referee or the Board, whichever is the subject of the

challenge. A challenge to the referee may be presented orally at a scheduled hearing conducted by the designee of the Board and made a part of the record, or a written challenge may be filed with the Board. The challenge to a referee will be decided by the Board. A challenge to a member of the Board may be presented orally at a scheduled hearing before the Board or its designee and made a part of the record, or a written challenge may be filed with the Board. The challenge to a particular Board member **[shall] will** be decided by the other Board members. If it is not feasible for the other Board members to reach a decision, the Board will request the Secretary of the Department to make a decision on the challenge.

COPIES OF TESTIMONY

§ 101.71. Copies on request.

If a party to a proceeding **[shall file] files** with the referee or the Board, a statement that a transcribed copy of the record of the testimony, or a part thereof, is necessary to a proper presentation of **[his] the party's** case, either before the referee or the Board, a transcribed copy of the record of the testimony, or an indicated part thereof, **[shall] will** be furnished to **[him] the party** without charge. In the event of an appeal from the decision of the Board to the Commonwealth Court, a party may request a transcribed copy of the record of the testimony, and it **[shall] will** be furnished without charge. **An unabridged transcript and audio recording of the testimony will be made available at cost, if not used for unemployment compensation purposes or a subsequent appeal, to the parties and their attorneys or other representatives upon written request to the Board.**

Subchapter C. APPEALS FROM DETERMINATIONS OF DEPARTMENT

§ 101.81. Filing of appeal from determination of Department.

(a) Appeal forms may be obtained from a Department appeal office, a **[workforce investment office or the Board's appeals system administrator in Harrisburg and] Pennsylvania CareerLink® office or** from the Department website **[(www.dli.state.pa.us)]**.

(b) Information about filing an appeal may be obtained from a Department appeal office, Board office and the Department's website. The Department will provide appeal instructions with each determination, including the **[address and fax number of a Board office, workforce investment office or] use of the Pennsylvania UC Claims System to file an online appeal and the mailing address, fax number and email address of** a Department appeal office where **written** appeals may be filed.

(c) An appeal from a determination of the Department shall be filed **[with a Department appeal office, a workforce investment office or a Board office] in accordance with § 101.82 (relating to time for filing appeal from determination of Department)** and shall contain the following information:

- (1) The name and address of the claimant.
- (2) The **[Social Security number of the claimant,] last four digits of the claimant's Social Security number, the claim number or the determination number**, if known.
- (3) The date of the determination which is being appealed.
- (4) The reasons for appeal.
- (5) The name **[and address of the appellant], mailing address, telephone number and email address or other contact information of the appellant**.

(6) Information as to whether the appellant desires to participate in the hearing by remote means.

(c.1) The tribunal may consider an appeal from a determination of the Department to be an appeal of all related determinations by which the appellant is aggrieved. The tribunal may consider the contents of the appeal, including the reason or reasons stated by the appellant for the appeal and the date of any other determinations when deciding whether a valid appeal has been filed from such other related determinations.

(d) Upon receipt of an appeal, the Department or the Board will docket and process the appeal [form].

(e) The Board will consider a written objection to the Department's determination as an appeal and process it under subsection (c) if the appellant does not complete the Department-provided appeal form.

§ 101.82. Time for filing appeal from determination of Department.

(a) A party seeking to appeal a Department determination shall file an appeal in the form and manner specified in § 101.81 (relating to filing of appeal from determination of Department) and this section no later than 21 days after the "determination date" on the determination.

(a.1) The Department will mail a copy of the determination to the party's last known post office address or [transmit it electronically, as designated by the party] deliver it electronically, based on the party's preferred method of notification designated in the Pennsylvania UC Claims System.

(b) A party may file a written appeal by any of the following methods:

(1) *United States mail.* The filing date will be determined as follows:

(i) The date of the official United States Postal Service postmark on the envelope containing the appeal, a United States Postal Service Form 3817 (Certificate of Mailing) or a United States Postal Service certified mail receipt.

(ii) If there is no official United States Postal Service postmark, United States Postal Service Form 3817 or United States Postal Service certified mail receipt, the date of a postage meter mark on the envelope containing the appeal.

(iii) If the filing date cannot be determined by any of the methods in subparagraph (i) or (ii), the filing date will be the date recorded by the Department, the **[workforce investment]** **Pennsylvania CareerLink®** office or the Board when it receives the appeal.

(2) *Common carrier.* An appeal may be delivered by a common carrier of property which is subject to the authority of the Pennsylvania Public Utility Commission or the United States National Surface Transportation Board. The date of filing is the date the document was delivered to the common carrier, as established by a document or other record prepared by the common carrier in the normal course of business. If the date of delivery to the common carrier cannot be determined by the documents in the record, the date of filing will be the date the **[workforce investment]** **Pennsylvania CareerLink®** office, Board or Department appeal office received the appeal.

(3) *Fax transmission.*

(i) The filing date will be determined as follows:

(A) The date of receipt imprinted by the Department, the **[workforce investment]** **Pennsylvania CareerLink®** office or the Board's fax machine.

(B) If the Department, the **[workforce investment] Pennsylvania CareerLink®** office or the Board's fax machine does not imprint a legible date, the date of transmission imprinted on the faxed appeal by the sender's fax machine.

(C) If the faxed appeal is received without a legible date of transmission, the filing date will be the date recorded by the Department appeal office, the **[workforce investment] Pennsylvania CareerLink®** office or the Board when it receives the appeal.

(ii) A party filing an appeal by fax transmission is responsible for delay, disruption, interruption of electronic signals and readability of the document and accepts the risk that the appeal may not be properly or timely filed.

(iii) A fax transmission is timely filed if it is received by the Department appeal office, **[workforce investment] Pennsylvania CareerLink®** office or Board before midnight on the last day of the appeal period in accordance with this subsection.

(4) Electronic mail [(e-mail)] (email) or other written electronic message designated by the Board as a valid appeal method.

(i) The date of filing is the receipt date recorded by the Department appeal office or the **Department or** Board's **[e-mail] email or other designated electronic message** system, if the **[e-mail]** message is in a form capable of being processed by that system.

(ii) The Department will **provide an email address in the appeal instructions on its decisions. The Department will** confirm receipt of the party's **[e-mail] email** appeal **sent to this email address** by sending the party an auto-reply **[e-mail] email**. If the party does not receive an auto-reply **[e-mail] email**, the Department has not successfully received the party's

appeal, and the party may resubmit the appeal using any method provided in this subsection.

Failure to resubmit the appeal prior to the appeal deadline will result in an untimely appeal.

(iii) A party filing by **[e-mail] email or by another designated electronic message system** shall comply with instructions concerning format. A party filing an appeal by **[e-mail] email or by another designated electronic message system** is responsible for using the proper format and for delay, disruption, interruption of electronic signals and readability of the document and accepts the risk that the appeal may not be properly or timely filed.

(iv) An electronic submission is timely filed if it is received by the Department appeal office, Department or Board before midnight on the last day of the appeal period in accordance with this subsection.

(4.1) *Pennsylvania UC Claims System.*

(i) The date of filing is the receipt date recorded by the Pennsylvania UC Claims System. Following submission of the appeal, a notation will appear in the Pennsylvania UC Claims System to show that the Department successfully received the party's appeal. Following submission of the appeal, the appeals section of the Pennsylvania UC Claims System will also show that the party's appeal has been filed. If the Pennsylvania UC Claims System does not indicate that the party's appeal has been filed, the party may resubmit the appeal using any method provided in this subsection. Failure to resubmit the appeal prior to the appeal deadline will result in an untimely appeal.

(ii) If the filing is untimely as a result of system or technological failure of the Pennsylvania UC Claims System, the date of filing will be redetermined through the adjudicatory process. The Board will make available to the Referee relevant Department records regarding system outages

[where] **when** a party alleges a late filing due to system or technological failure **and the**
appellant may also submit additional testimony and evidence to be considered by the
tribunal in the adjudication of the timeliness of the appeal.

(5) *Personal delivery to a [workforce investment] Pennsylvania CareerLink® office or the Board.* The filing date will be the date the appeal was personally delivered to the **[workforce investment] Pennsylvania CareerLink®** office or the Board during its normal business hours.

(c) *Appeal acknowledgement letter.* After a party files an appeal using one of the methods provided in subsection (b), the Department or Board will send the party a letter acknowledging that it received the party's appeal, **[and]** the date on which the party filed the appeal **and** **whether the party requested a hearing by remote means.**

§ 101.83. Notification of filing of appeal.

(a) Notice of an appeal having been filed at a Pennsylvania CareerLink® shall be furnished by the [local employment] Pennsylvania CareerLink® office wherein the appeal was filed[, to the central office of the Board and to each party to the claim proceedings, by personal delivery or by mailing it to his last known post office address] to the Department or to the Board.

(b) Notice of an appeal having been filed from a determination of the Department will be furnished by the central office of the Board to each party to the claim proceedings by mailing an appeal acknowledgement letter to their last known post office address or delivering it electronically based on each party's preferred method of notification designated in the Pennsylvania UC Claims System. The notice will indicate whether the

appellant requested a hearing by remote means and provide instructions on how any party to the appeal proceedings may request to participate in the hearing by remote means.

§ 101.84. Jurisdiction of appeal.

(a) The Board may hear and dispose of an appeal without referring it to a referee. However, unless the Board assumes original jurisdiction, the appeal **[shall] will** be assigned promptly to a referee for hearing.

(b) The Board may also remove or transfer an appeal pending before a referee at any time. When an appeal pending before a referee is transferred by the Board to another referee a hearing **[shall] may** be held before the referee by whom the appeal is to be decided **or the appeal may be decided on the existing appeal record.**

(c) The Board may also review on its own motion any claim decided by a referee. The Board may rely on the existing record or reopen the record and order another hearing if the current record is deficient or additional evidence is required. If the record is reopened, a new hearing will be scheduled with written notice thereof to each of the parties and their counsel or authorized agent of record.

§ 101.85. Notice of appeal hearing.

(a) The tribunal by which the appeal is to be heard **[shall] will** schedule the appeal promptly for hearing and give at least **[7] 10** days' notice of the hearing to the parties and their counsel or authorized agent of record, specifying the date, hour and place of hearing **[and specific issues to**

be covered at the hearing], the issues which may be considered by the referee or Board, and whether the hearing will be held in person or by remote means.

(b) [Exclusive of cases which involve an issue as to the amount or sufficiency of wages of a claimant in covered employment, an exception may be made to the 7-day rule and hearings] Hearings may be scheduled [upon shorter notice, but not less than 3 days, so that newly received appeals may be included in the itinerary of the referee of scheduled hearings at outlying points] with less than 10 days' notice with the consent of the parties to the appeal. [If a hearing is scheduled with less than 7 days' notice, affected parties shall be instructed to notify the referee immediately, if it is not convenient for them to attend the hearing. If it is inconvenient for an affected party to attend a hearing on short notice, the appeal shall be rescheduled promptly for hearing.]

(c) If hearings on more than one appeal are to be scheduled and conducted jointly, each party [shall] will be notified in [his] the notice of hearing that a joint hearing will be held, that a single record of the proceedings will be made and that evidence introduced with respect to an appeal will be considered as introduced with respect to all.

§ 101.86. Appeal hearings.

(a) Hearings [shall] may be held at places determined by the tribunal which [shall] will be reasonably convenient to each of the parties concerned or by remote means as permitted under Subchapter E (relating to remote hearings). During the hearing each party [shall] will be given the opportunity to submit testimony or evidence in support of [his] the party's contentions. Also, each party [shall have] has the right to present oral or written argument and will be afforded the opportunity to reply to the arguments and contentions of the other parties.

(b) [If the scheduled hearing is not in the county where the claimant regularly reports for work, the employer may make a written request that a separate hearing be scheduled in such county, and such request shall be granted where it is established that it is impracticable because of the distance for the employer or his representative to attend the regularly scheduled hearing in the area where the claimant is located.] {Reserved}.

(c) The hearing of an appeal from the decision of the Department [shall] will be conducted in the manner provided in § 101.21 (relating to conduct of hearings).

§ 101.87. Issues considered on original appeal.

When an appeal is taken from a decision of the Department, the Department [shall be] is deemed to have ruled upon all matters and questions pertaining to the claim. In hearing the appeal, the tribunal [shall] will consider the issues expressly ruled upon in the decision from which the appeal was filed. However, any issue in the case may, with the approval of the parties, be heard, if the speedy administration of justice, without prejudice to any party, will be substantially served thereby.

§ 101.88. Decision on original appeal.

The tribunal [shall] will affirm, modify or reverse the decision of the Department as [shall appear] appears just and proper from the evidence submitted. If necessary and proper, the tribunal may vacate, dismiss, or remand the appeal. The decision of the tribunal [shall] will be rendered promptly after the conclusion of the hearing and shall set forth the following:

(1) The names and addresses of parties involved, appeal number and claimant's [social security] claim number.

(2) A history of the case, including the date of application for benefits, claim week ending dates, date of appeal and identity of appellant.

(3) The date and nature of the determination (decision) being appealed.

(4) Findings of fact.

(5) Reasons for the decision.

(6) Conclusions of law.

(7) The order.

§ 101.89. Notice of decision.

A copy of the decision of the tribunal [shall] will be mailed to each [party's] party and their counsel or authorized agent at their last known post office address or [transmitted electronically, as designated by the party, including each party's counsel or authorized agent] delivered electronically, based on the party's preferred method of notification designated in the Pennsylvania UC Claims System. The decision date [shall be] is the date the decision is posted on the Pennsylvania UC Claims System and available for viewing.

§ 101.90. Further appeal.

(a) Within 21 days after the decision of a referee, the claimant, the Department or an affected employer may file an application for a further appeal with the Board.

(b) The decision of the Board on an original appeal will become final the date it is rendered. Within 30 days after the decision of the Board becomes final, the claimant, the Department or an affected employer may file an appeal with the Commonwealth Court.

§ 101.91. Post decision changes by the tribunal.

Unless a party or the Department has filed a timely petition for appeal from a decision of the referee, the tribunal may on its own motion, within the appeal period of the decision, set aside the decision of the referee if necessary to correct a mistake, including an error of law, and may thereafter make new findings and issue an amended decision on the basis of evidence previously submitted in such case, or after reopening the record. If the record is reopened, a new hearing will be scheduled with written notice thereof to each of the parties and their counsel or authorized agent of record. The tribunal will include the reason for the amended decision in such decision.

Subchapter D. APPEALS FROM DECISION OF REFEREE

§ 101.101. Review by Board.

Upon application to the Board (petition for further appeal to the Board), or on its own motion, the Board may remove, transfer, or review [an appeal] a claim which is pending before, or has been decided by, a referee. Notice of the removal or transfer of a case to the Board [shall] will be mailed to the last known post office address of each interested party or delivered electronically, based on the party's preferred method of notification designated in the Pennsylvania UC Claims System.

§ 101.102. Form and filing of application for further appeal from decision of referee.

A party shall file an appeal from a referee's decision in accordance with §§ 101.81 and 101.82 (relating to filing of appeal from determination of Department; and time for filing appeal from determination of Department).

§ 101.103. Notification of filing of application for further appeal.

(a) Notice of an appeal having been filed at a Pennsylvania CareerLink® office shall be furnished by the Pennsylvania CareerLink® office in which the appeal was filed to the Department or the Board.

(b) Notice of the application for the allowance of an appeal (petition for further appeal) [shall] will be furnished by [the local employment office wherein such application was filed, to the central office of the Board and to each party to the claim proceedings, by personal delivery or by mailing it to his last known post office address] the central office of the Board to each party to the claim proceedings, by mailing an appeal acknowledgement letter to their last known post office address, or delivering it electronically based on each party's preferred method of notification designated in the Pennsylvania UC Claims System.

§ 101.104. Allowance or disallowance of appeal.

(a) The Board may allow or disallow any application for a further appeal without hearing, solely on the basis of the application and the record.

(b) If the further appeal is disallowed, the Board will enter an order of disallowance, notification or a copy of which order [shall] will be mailed to each party, [his] their counsel or authorized agent, at their last known post office addresses, or will be delivered electronically to each party, their counsel or authorized agent, based on their preferred notification method designated in the Pennsylvania UC Claims System.

(c) If the further appeal is allowed by the Board, or if the Board removes an appeal from the referee to the Board and on its own motion assumes jurisdiction of the appeal, notification [shall] will be mailed to the last known post office address of each interested party, or will be delivered electronically to each party, their counsel or authorized agent, based on their preferred notification method designated in the Pennsylvania UC Claims System. The Board will review the previously established record and determine whether there is a need for an additional hearing. Under section 504 of the Unemployment Compensation Law (43 P. S. § 824), the Board may affirm, modify or reverse the decision of the referee on the basis of the evidence previously submitted in the case, or the Board may direct the taking of additional evidence, if in the opinion of the Board, the previously established record is not sufficiently complete and adequate to enable the Board to render an appropriate decision. The Board will determine all questions as to the admissibility of evidence in the appeal record. The further appeal [shall] will be allowed and additional evidence required in any of the following circumstances:

- (1) Whenever the further appeal involves a material point on which the record below is silent or incomplete or appears to be erroneous.
- (2) It appears that there may have been a denial of a fair hearing under the rules.
- (3) [Under § 101.24 (relating to reopening of hearing) a] A request for reopening received after the decision of the referee was issued which constitutes a request for further appeal to the Board under § 101.24 (relating to reopening of hearing) and the request for reopening is allowed under that section.
- (4) The party asserts a reason for their nonappearance at the prior hearing or asserts a reason for their witness's nonappearance if it appears that the witness's testimony and

evidence would be competent and relevant to the issues involved and that the information is essential to a proper determination of the case.

(d) If the Board determines that a further hearing is necessary, the case **[shall]** **will** be remanded to a referee for the purpose of scheduling another hearing, at which hearing the referee **[shall]** **will** serve as a hearing officer for the Board, to receive from the parties the additional information as may be pertinent and material to a proper conclusion in the case. After the record has been completed, the entire file and record of evidence **[shall]** **will** be returned to the Board for its consideration and the further action as may be deemed appropriate.

(e) Whether **[or not]** another hearing is scheduled in connection with the further appeal, any of the interested parties may file a written request for oral or written argument. In response to the request, or on a motion by the Board, oral argument may be scheduled before the Board, at which time written briefs **[with five copies]** may be submitted for the consideration of the Board. Otherwise, the normal time allowed for submitting written argument **[shall be 7] is 14** days from the date of the request, which, with the approval of the Board, may be extended due to extenuating circumstances. Each party **[shall]** **will** be afforded the opportunity to reply to the arguments and contentions of the other parties.

§ 101.105. Notice of remand hearing.

(a) If the Board determines that a further hearing is necessary, the tribunal **[shall]** **will** give at least **[7] 10** days' notice of the scheduled hearing to the parties and their counsel or authorized agent of record, with specific instructions regarding the date, hour **[and place of hearing, and specific issues to be covered at the hearing], place of hearing, whether the hearing will be**

held in person or by remote means, and the specific issues to be covered at the hearing. The hearing will be governed by the Board's order and any accompanying memorandum.

(b) If hearings on more than one appeal are to be scheduled and conducted jointly, each party [shall be notified in his] will be notified in the notice of hearing that a joint hearing will be held, that a single record of the proceedings will be made and that evidence introduced with respect to an appeal will be considered as introduced with respect to all.

§ 101.106. Scope of review.

In connection with the consideration of an appeal to the Board from the decision of a referee or determination of the Department, as the case may be, the Board may review both the facts and the law pertinent to the issues involved on the basis of the evidence previously submitted, or direct the taking of additional testimony. In any case the Board may limit the parties to oral argument or the filing of a written argument or both.

§ 101.107. Issues considered on appeal.

(a) In connection with the consideration of an appeal to the Board from the decision of a referee, the Board may consider an issue in the case though not expressly ruled upon in the decision of the Department or the referee and though not previously raised in the claim or appeal proceedings. However, issues not previously considered or raised will not be considered by the Board, either upon application for, or in the determination of an appeal unless the speedy administration of justice, without prejudice to any party, will be substantially served thereby and the findings of fact are supported by the record.

(b) The Board [shall] will consider the issues expressly ruled upon in the decision from which the appeal was filed. However, any issue in the case, with [the approval of] notice to the

parties, may be determined though not expressly ruled upon or indicated in the notice of hearing, if the speedy administration of justice, without prejudice to any party, will be substantially served thereby and **the findings of fact** are supported by the record.

§ 101.108. Appeal hearings.

(a) If the Board determines that a further hearing is necessary, such hearing **[shall] will** be held **[at a location to be determined by the Board and shall be conducted in the manner provided in the general rules as set forth in this part. Hearings for taking additional evidence shall be held at places reasonably convenient to the parties concerned] in accordance with § 101.86 (relating to appeal hearings).**

(b) **[Where]** **If** an appeal is remanded to a referee for the taking of additional evidence, the referee **[shall] will** either render a new decision or submit the entire file and completed record of testimony for Board consideration and determination, as directed in the remanding order of the Board.

§ 101.109. Decision of Board.

The Board may affirm, modify[,] or reverse the findings of fact and the decision of the referee as **[shall appear] appears just and proper on the basis of all the evidence [submitted in the case] in the appeal record. The Board may also vacate and remand the case to the referee or Department as necessary or at the request of the Department.** The decision **[shall] must** set forth information described in § 101.88 (relating to decision on original appeal).

§ 101.110. Notice of decision of Board.

A copy of the decision of the Board [shall] will be mailed to each [party's last known post office address or transmitted electronically, as designated by the party, including each party's counsel or authorized agent] party and their counsel or authorized agent at their last known post office address or delivered electronically, based on the party's preferred method of notification designated in the Pennsylvania UC Claims System. The decision date [shall be] is the date the decision is posted on the Pennsylvania UC Claims System and available for viewing.

§ 101.111. Reconsideration by Board.

(a) Within 15 days after the issuance of the decision of the Board, as may be determined by the provisions of § 101.102 (relating to form and filing of application for further appeal from decision of referee), any aggrieved party may request the Board to reconsider its decision and if allowed, to grant further the opportunity to do the following:

(1) Offer additional evidence at another hearing.

(2) Submit written or oral argument.

(3) Request the Board to reconsider the previously established record of evidence.

(b) The requests will be granted only for good cause in the interest of justice without prejudice to any party. [The parties will be notified of the ruling of the Board on each such request.] If the Board fails to rule on a request for reconsideration within the time period specified in § 101.24(d) (relating to reopening of hearing), the request is deemed denied regardless of whether notice is provided. The request for reconsideration and the ruling of the Board [shall] will be made a part of the record and subject to review in connection with any further appeal to the Commonwealth Court.

(c) A request for reconsideration by an aggrieved party will not extend the appeal period for the party to file a further appeal to the Commonwealth Court.

§ 101.112. Appeal from decision of Board.

- (a) An order of the Board disallowing a further appeal from the decision of a referee, or the decision of the Board where an appeal is allowed, shall become final the date it is rendered.
- (b) Within 30 days after the order or decision of the Board becomes final, the claimant, the Department, or any affected employer may take an appeal to the Commonwealth Court.

§ 101.113. Post decision changes by the Board.

Unless a party or the Department has filed a timely petition for review from a decision of the Board, the Board may on its own motion, set aside the decision of the Board if necessary to correct a mistake, including an error of law, technical error or administrative mistake, and may thereafter make new findings and issue an amended decision on the basis of evidence previously submitted in such case, or after reopening the record. If the record is reopened, a new hearing will be scheduled with written notice thereof to each of the parties and their counsel or authorized agent of record. The Board will include the reason for the amended decision in its decision.

Subchapter E. [TELEPHONE] REMOTE HEARINGS

§§ 101.121—101.126. [Reserved].

§ 101.127. Purpose and scope.

- (a) [In-person testimony is normally preferable to testimony by telephone; however, there can be reasons to justify receiving testimony by telephone.] **It is the intent of the Board to**

allow any party to attend a hearing by their preferred method of participation, whether in person or by remote means, in accordance with this subchapter. This subchapter is promulgated to provide the conditions under which testimony by [telephone] remote means will be scheduled and received, to safeguard the due process rights of the parties, and to ensure that testimony by [telephone] remote means is received under uniformly applied rules. Testimony by [telephone] remote means may be received only if specifically authorized by this subchapter.

(b) When the general rules of this chapter conflict with this subchapter, this subchapter controls.

§ 101.128. Scheduling of [telephone] remote hearings or testimony.

(a) The tribunal may schedule, on its own motion, [testimony by telephone of a party or witness when] a hearing or testimony by remote means when one of the following applies:

(1) [it] It appears from the record that [the] a party or witness is located at least 50 miles from the location at which the tribunal will conduct the hearing, without regard to State boundaries.

(2) The parties consent to participating in the receipt of testimony by remote means.

(3) The tribunal determines there exists a compelling health or safety concern which necessitates conducting a hearing by remote means.

(4) The tribunal determines there exists a compelling staffing or workload need within one or more referee offices which requires the use of a hearing by remote means for the tribunal to provide a timely hearing subject to consideration of a party's objection to participating in the hearing by remote means.

(5) The tribunal determines that a disaster emergency declared by the Governor or another exigent circumstance, which poses a temporary risk to the health and safety of hearing participants, necessitates conducting hearings by remote means.

(b) [The tribunal may schedule testimony by telephone of a party or witness, at the request of one or more parties, when] **The tribunal will schedule testimony or participation of a party or witness by remote means at the timely request of a party unless** one of the following applies:

(1) **[The parties consent to the receipt of testimony by telephone.] One of the parties objects to participation or the receipt of testimony by remote means and the tribunal determines that in-person participation or testimony is necessary to ensure a fair hearing.**

(2) **[The party or witness is reasonably unable to testify in person due to a compelling employment, transportation, or health reason, or other compelling problem.] The tribunal determines that due to the inability of a party or a witness to access the technology needed to effectively participate in the hearing by remote means, in-person participation or testimony is required.**

(3) The tribunal determines that due to circumstances related to the large number of witnesses, significant length of testimony or amount of evidence, video or physical nature of evidence, identity or other similar issues involved, in-person participation or testimony is required.

(4) The tribunal determines that due to a disability, or a language barrier that requires translation services, a party or witness will be prevented from effectively participating in the hearing if others are allowed to participate by remote means.

(c) [Only a party or witness scheduled to testify by telephone, or identified prior to the taking of testimony in accordance with § 101.131(f) (relating to conduct of a telephone hearing), may testify by telephone, and the testimony of each other party or witness shall be received in person.] {Reserved}.

(d) The tribunal will promptly rule on a request that testimony be taken by [telephone after a reasonable attempt has been made to inform the parties of the request, the basis for the request, the regulations under which telephone testimony can be taken, and] remote means and notify all parties of the right of a party to object to the ruling. The [basis for the request, the position of the parties, if known, and the] ruling on the request and any objection will be documented on the record.

(e) A party or witness scheduled to testify by [telephone] remote means will be permitted to testify in person, provided the party or witness timely informs the tribunal of their intention to appear in person to ensure the accessibility of the tribunal at the time of hearing.

(f) Nothing in this rule precludes the tribunal from using its discretion to schedule or allow a party, witness, counsel or authorized agent to participate in a hearing by a specific method of remote means while others participate in the hearing in person or by a different method of remote participation if, in the judgment of the tribunal, such participation will not be prejudicial to any party.

§ 101.129. Procedures subsequent to scheduling.

(a) If a party moves to withdraw consent to the receipt of testimony by **[telephone] remote means** prior to the taking of testimony, the tribunal will allow the withdrawal if it is found that the consent was not freely and knowingly given.

(b) An objection to the receipt of testimony by **[telephone] remote means** shall set forth the reasons in support thereof and shall be promptly communicated to the tribunal, but may not be asserted subsequent to the taking of testimony.

(c) The tribunal will promptly rule on objections to testimony by **[telephone] remote means** after a reasonable attempt to obtain the position of the other party. The basis for the objection, the position of the other party, if known, and the ruling will be documented on the record.

§ 101.130. Notice of [testimony by telephone] hearing with testimony by remote means and use of documents.

(a) When testimony by **[telephone] remote means** is to be taken, the tribunal will **[mail] distribute** the notice of hearing to the parties and, if known, to their counsel or authorized agent **by mailing to their last known post office address or delivering it electronically based on each party's preferred method of notification designated in the Pennsylvania UC Claims System**, at least 14 days in advance of the hearing. The hearing notice will indicate:

- (1) The date and time of the hearing in prevailing Eastern time.
- (2) The names of **[counsel, authorized agent, parties and witnesses,] interested parties, and counsel or authorized agent**, if known, who are scheduled to appear or testify by **[telephone] remote means**.

(3) The deadline by which the tribunal is to receive documents, if any, from all parties, and
the method by which documents may be provided.

(3.1) Information as to whether the hearing will be conducted by telephone, video
conference or another comparable method of two-way communication technology.

(3.2) Information as to how to participate in the hearing and how to obtain assistance with
participation in the hearing as scheduled, including:

(i) Basic instructions to participate by remote means, including whether the tribunal will
initiate contact with the parties and their counsel or authorized agent, and witnesses or
whether the parties and their counsel or authorized agent, and witnesses are required to
access a conference, portal or other method to participate in the hearing.

(ii) The method to obtain detailed written instructions for participation by remote means.

(iii) Notice of the right to object to participation or receipt of testimony at the hearing by
remote means.

(iv) Instructions on how to notify the tribunal of an objection and how to request an in-
person hearing.

(v) The method to notify the tribunal of a correct telephone number or other contact
information.

(vi) The method to obtain assistance to access or connect to a hearing held by remote means
in advance of the hearing and to report an access or connectivity issue during and after a
hearing.

(4) The hearing will be [tape] recorded.

(b) When testimony by **[telephone] remote means** is to be taken, the tribunal will **[send] distribute** a copy of this subchapter with the notice of hearing. If the tribunal finds that an unrepresented party has not received a copy of this subchapter, a copy will be provided **[and the hearing will be rescheduled] before the taking of testimony and the hearing may proceed unless the party objects.**

(c) A party intending to testify, to offer the testimony of witnesses, or to be represented by **[telephone] remote means**, shall, in advance of the beginning of the hearing, supply the tribunal with the name, [location and] telephone number **and other necessary contact information** of the persons who will so appear.

(d) When scheduling a **[telephone]** hearing **by remote means**, the tribunal will enclose with the notice of hearing copies of the documents **[upon which the initial determination was based] in the appeal record**. These copies will **be pre-marked as exhibits and will** accompany the notices of hearing to all parties, and their counsel or authorized agent, if known.

(e) When any testimony will be given from or with the aid of a document not previously distributed to the parties by the tribunal, the party expecting to introduce the document shall deliver it to the tribunal, and the tribunal **[shall] will** distribute it to each other party and, if known, counsel or authorized agent before or at the beginning of the testimony. The tribunal may require that the documents be delivered **to the tribunal** up to 5 days in advance of the hearing. **A document which has been distributed and is viewable to other parties, counsel and authorized agents prior to testimony taken from the aid of the document may be included in the appeal record without regard to the time of delivery.** See § 101.131(h) (relating to conduct of a **[telephone]** hearing **by remote means**).

§ 101.131. Conduct of a [telephone] hearing by remote means.

(a) Before testimony is received, the tribunal will advise all parties of the right to object to [telephone] the taking of testimony by remote means and the right to request an in-person hearing in compliance with Subchapter B (relating to provisions governing hearings before the Department or referee).

(b) A party may pursue an objection to [telephone] the taking of testimony by remote means at the hearing and shall set forth reasons in support thereof. If the objection is sustained, the tribunal will reschedule the hearing at a later date, either in person or by [telephone] remote means, in accordance with Subchapter B or this subchapter. If the objection is not sustained, the tribunal may proceed with the hearing in accordance with this subchapter.

(c) A hearing by remote means may be conducted with the tribunal initiating contact with the parties, counsel, authorized agents and witnesses to participate in the hearing, or with the parties, counsel, authorized agents and witnesses initiating contact with the tribunal to participate in the hearing. At the start of the hearing, the tribunal will state on the record the time [and telephone numbers at which the tribunal initiates the contact with any party, witness, legal counsel or authorized agent who is to testify or appear by telephone] and date, and the means by which the hearing is being conducted. The tribunal will also state on the record the telephone number or other means by which the tribunal initiated contact with the participant, or the conference identification, portal or other information by which the participant was notified to access the hearing scheduled for participation by remote means.

(d) The proceedings of the hearing will be [tape] recorded to preserve the record. A person testifying or appearing by [telephone] remote means will be advised by the tribunal that the proceedings are being [tape] recorded.

(e) The tribunal will provide for identity confirmation for parties and witnesses, including the sworn affirmation of identity, subject to 18 Pa.C.S. § 4903 (relating to false swearing), for individuals participating by remote means. The tribunal will permit parties a reasonable opportunity to question other parties or witnesses testifying by [telephone] remote means for the purpose of verifying the identity of the parties or witnesses. Falsification of identity may subject the parties or witnesses to prosecution and punishment.

(f) A party or witness not identified to the tribunal and all other parties before the beginning of the testimony will not be permitted to testify by [telephone] remote means unless the opposing party consents to such testimony. Testimony taken or given in violation of this subsection will be excluded from consideration.

(g) A person may not prompt or direct the testimony of a witness testifying by [telephone] remote means. Testimony taken or given in violation of this subsection may be excluded from consideration by the tribunal, with or without an objection from a party.

(h) A document not provided as required by § 101.130(e) (relating to notice of hearing with testimony by [telephone] remote means and use of documents) may not be admitted nor testimony given or taken from it unless consent has been requested from and given by all parties. Testimony taken or given in violation of this subsection will be excluded from consideration, as will the document. The reason any such document was not admitted will be appended to the

record and any such document will be included in the appeal record so that it is subject to review on further appeal.

(i) The oath or affirmation administered to parties or witnesses testifying by [telephone shall] **remote means must include the identity of the party and** indicate that the parties or witnesses will not testify from **paper or electronic** documents that are not in the record and that their testimony will not be prompted or directed during the hearing by any other person.

(i) If a party or witness fails to connect to a hearing held by remote means, or becomes disconnected from a hearing held by remote means, the tribunal:

(1) Will attempt to connect the party or witness to the hearing at the telephone number provided to the tribunal.

(2) May postpone or continue the hearing, or may proceed with the hearing after making reasonable attempts to connect or reconnect the party or witness to the hearing.

(3) May not conclude the hearing or close the record unless the party or witness has not connected or been reconnected to the hearing for a period of at least 10 minutes.

(4) Will append to the record the method and time of day of each attempt to connect or reconnect a party or witness to the hearing so that it is subject to review on further appeal.

§ 101.132. Representation by [telephone] remote means.

The counsel or authorized agent of a party [may appear at a hearing by telephone, with the approval of the tribunal] **who is scheduled to participate in a hearing by remote means may also appear at the hearing by remote means. The counsel or authorized agent of a party**

who is participating at a hearing in person, may appear at the hearing by remote means with the approval of the tribunal.

§ 101.133. Data maintenance requirement.

The Board will compile and maintain data on the scheduling and receipt of testimony by [telephone] **remote means.**



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF LABOR AND INDUSTRY

April 16, 2025

Chairman George D. Bedwick
Independent Regulatory Review Commission
333 Market Street, 14th Floor
Harrisburg, PA 17101

Re: Notice of Proposed Rulemaking
Unemployment Compensation Board of Review
34 Pa. Code, Part VI, Ch. 101; No. 12-120

Dear Chairman Bedwick:

Enclosed is a proposed rulemaking package consisting of a Face Sheet, Preamble, Annex A and Regulatory Analysis Form with attachments.

The Department of Labor & Industry, Unemployment Compensation Board of Review (Board) is submitting this rulemaking to amend Part VI, Chapter 101 of 34 Pa. Code to update the Board's General Requirements regulations.

Written comments, recommendations or objections should be directed to Unemployment Compensation Board of Review, ATTN: Proposed Rulemaking, 651 Boas Street, Room 1114, Harrisburg, PA 17121, email address RA-LIUCBR-REGCOMM@pa.gov.

The Board's staff will provide your staff with any assistance required to facilitate your review of this proposal.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard W. Bloomingdale".

Richard W. Bloomingdale
Chairman

cc w/encl: The Honorable Akbar Hossain, Secretary of Planning and Policy
The Honorable Nancy A. Walker, Secretary,
Department of Labor & Industry
William L. Trusky, Executive Deputy Secretary
Maria G. Macus, Deputy Secretary,
Unemployment Compensation Programs
Joshua Towzey, Director of Legislative Affairs
Mary Dougherty, Executive Policy Specialist
Benjamin C. Holt, Chief Counsel
Emily J. Rodriguez, Executive Deputy Chief Counsel
Janet M. Tarczy, Deputy Chief Counsel
Melissa A. Trambley, Appeals System Administrator,
Unemployment Compensation Board of Review

Shani ShenkIndependent Regulatory
Review Commission

From: Bulletin <bulletin@palrb.us> **Sent:** Wednesday, April 16, 2025 11:51 AM **To:** Mueller, Janet (LI-OCC) **Cc:** Rodriguez, Emily; Holt, Benjamin; Giovanis, Christopher (LI-OCC); A.J. Mendelsohn **Subject:** [External] Re: Documents for Publication - L&I Proposed Regulation - 12-120

April 16, 2025

ATTENTION: This email message is from an external sender. Do not open links or attachments from unknown senders. To report suspicious email, use the [Report Phishing button in Outlook](#).

Good morning, Jan,

Thank you for reaching out regarding scheduling this proposed rulemaking. It is scheduled for publication in the May 10th issue of the *Pennsylvania Bulletin*. (I miscounted the weeks when we spoke.)

Have a wonderful afternoon,
Adeline

Adeline Gaydosh | Legal Assistant

agaydosh@palrb.us | 717.783.3984

Legislative Reference Bureau
Pennsylvania Code & Bulletin Office
647 Main Capitol Building
Harrisburg, PA 17120

From: Mueller, Janet (LI-OCC) <jamueller@pa.gov>
Sent: Wednesday, April 16, 2025 10:35 AM
To: Bulletin <bulletin@palrb.us>
Cc: Leah Brown <lbrown@palrb.us>; Rodriguez, Emily <emrodrigue@pa.gov>; Holt, Benjamin <benholt@pa.gov>; Giovanis, Christopher (LI-OCC) <cgiovanis@pa.gov>
Subject: FW: Documents for Publication - L&I Proposed Regulation - 12-120

Correction: This is for a Proposed Regulation #12-120.

Thank you!

From: Mueller, Janet (LI-OCC)
Sent: Wednesday, April 16, 2025 10:28 AM
To: Bulletin <bulletin@palrb.us>
Cc: Leah Brown <lbrown@palrb.us>; Rodriguez, Emily <emrodrigue@pa.gov>; Holt, Benjamin <benholt@pa.gov>; Giovanis, Christopher (LI-OCC) <cgiovanis@pa.gov>
Subject: Documents for Publication - L&I Proposed Regulation - 12-120
Importance: High

Good afternoon,

Attached is the PDF for Final Regulation #12-117 with Preamble and Annex A in Word format for publication.

Please confirm publication date of April 26, 2025.

Thank you!

RECEIVED

Independent Regulatory
Review Commission

April 16, 2025



Jan Mueller | Legal Office Administrator 1

PA Department of Labor & Industry | Office of Chief Counsel
651 Boas Street, 10th Floor
Harrisburg, PA 17121
Phone: 717.772.8291 | Fax: 717.787.1303
www.pa.gov

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Shani Shenk

RECEIVED

From: Detrick, Johnathan <JDetrick@pahouse.net>
Sent: Wednesday, April 16, 2025 9:37 AM
To: Mueller, Janet (LI-OCC)
Cc: Giovanis, Christopher (LI-OCC)
Subject: Re: L&I Proposed Rulemaking - 12-120

Independent Regulatory
Review Commission

April 16, 2025

I have received it.

Thank you!

Johnathan Detrick
he/him/his
Senior Legislative Assistant
State Representative Jason Dawkins, 179th District
Majority Chairman, Labor & Industry Committee
150 Main Capitol
717.787.1354 (x6018)
jdetrick@pahouse.net

Better Jobs, Better Schools, Better Communities

From: Mueller, Janet (LI-OCC) <jamueller@pa.gov>
Sent: Wednesday, April 16, 2025 9:21 AM
To: Detrick, Johnathan <JDetrick@pahouse.net>
Cc: Giovanis, Christopher (LI-OCC) <cgiovanis@pa.gov>
Subject: L&I Proposed Rulemaking - 12-120

Good morning,

Attached is the Proposed Rulemaking #12-120.

Please respond to this email that you have received delivery.

Thank you!



Jan Mueller | Legal Office Administrator 1
PA Department of Labor & Industry | Office of Chief Counsel
651 Boas Street, 10th Floor
Harrisburg, PA 17121
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From: John Scarpato <Jscarpato@pahousegop.com>
Sent: Wednesday, April 16, 2025 9:33 AM
To: Mueller, Janet (LI-OCC); Sherry Eberly
Cc: Seth M. Grove
Subject: RE: [EXTERNAL]: L&I Proposed Rulemaking - 12-120

Independent Regulatory
Review Commission
April 16, 2025

Received – Thank you Jan.

From: Mueller, Janet (LI-OCC) <jamueller@pa.gov>
Sent: Wednesday, April 16, 2025 9:23 AM
To: Sherry Eberly <Seberly@pahousegop.com>
Cc: John Scarpato <Jscarpato@pahousegop.com>; Seth Grove <Sgrove@pahousegop.com>
Subject: [EXTERNAL]: L&I Proposed Rulemaking - 12-120
Importance: High

Good morning,

Attached is the Proposed Rulemaking #12-120.

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Jan Mueller | Legal Office Administrator 1
PA Department of Labor & Industry | Office of Chief Counsel
651 Boas Street, 10th Floor
Harrisburg, PA 17121
Phone: 717.772.8291 | Fax: 717.787.1303
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Shani Shenk

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From: Updegraff, Cathy <Cathy.Updegraff@pasenate.com>
Sent: Wednesday, April 16, 2025 9:32 AM
To: Mueller, Janet (LI-OCC)
Cc: Giovanis, Christopher (LI-OCC)
Subject: RE: L&I Proposed Regulation - 12-120

Independent Regulatory
Review Commission

April 16, 2025

Received.

Thank you,

Cathy

Cathy L. Updegraff
Executive Assistant / Scheduler
Senator John I. Kane
458 Main Capitol Building
Harrisburg PA 17120
(717)787-4712
cathy.updegraff@pasenate.com

From: Mueller, Janet (LI-OCC) <jamueller@pa.gov>
Sent: Wednesday, April 16, 2025 9:25 AM
To: Updegraff, Cathy <Cathy.Updegraff@pasenate.com>
Cc: Giovanis, Christopher (LI-OCC) <cgiovanis@pa.gov>
Subject: L&I Proposed Regulation - 12-120
Importance: High

■ EXTERNAL EMAIL ■

Good morning,

Attached is the Proposed Rulemaking #12-120.

Please respond to this email that you have received delivery.

Thank you!



Jan Mueller | Legal Office Administrator 1
PA Department of Labor & Industry | Office of Chief Counsel
651 Boas Street, 10th Floor
Harrisburg, PA 17121
Phone: 717.772.8291 | Fax: 717.787.1303
www.pa.gov

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From: Kratz, Eric <ekratz@pasen.gov>
Sent: Wednesday, April 16, 2025 10:16 AM
To: Mueller, Janet (LI-OCC)
Cc: Giovanis, Christopher (LI-OCC)
Subject: RE: L&I Proposed Rulemaking - 12-120

Independent Regulatory
Review Commission

April 16, 2025

Received. Thanks Jan.

Best,
Eric

Eric Kratz

Executive Director | Senate Labor and Industry Committee
Office of Senator Devlin Robinson
171 Main Capitol | Harrisburg, PA 17120
Phone: 717.783.6832 | Cell: 717.215.1259
ekratz@pasen.gov
www.senatorrobinson.com



If you would like to sign up for our e-news, sign up [here](#).

From: Mueller, Janet (LI-OCC) <jamueller@pa.gov>
Sent: Wednesday, April 16, 2025 9:24 AM
To: Kratz, Eric <ekratz@pasen.gov>
Cc: Giovanis, Christopher (LI-OCC) <cgiovanis@pa.gov>
Subject: L&I Proposed Rulemaking - 12-120
Importance: High

© CAUTION : External Email ©

Good morning,

Attached is the Proposed Rulemaking #12-120.

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