



From: [Michael Simon](#)
To: [LI, UCBR-RegComm](#)
Subject: [External] Comments re: proposed regulations
Date: Monday, June 2, 2025 1:44:03 PM
Attachments: [IRRCregs.pdf](#)

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Dear Ms. Trambley,

Attached please find my comments to the IRRC on the amendments propose to the Regulations.

Thank you giving me this opportunity.

Please let me know if you have any questions.

Thanks,

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June 2, 2025

Sent via email only to: RA-LIUCBR-REGCOMM@pa.gov

Ms. Melissa Trambley
Appeals System Administrator
U.C. Board of Review
651 Boas Street, Room 1114
Harrisburg, PA 17121

Re: Comments to IRRC on amendments to Regs

Dear Ms. Trambley,

I am a stakeholder in the review process for the proposed regulations to Chapter 101 of Title 34 of the PA Code regarding hearings and proceedings before the Referees and Board of Review.

As the former founder and director of the Duquesne Law School's Unemployment Compensation Clinic and a regular volunteer attorney for significant amounts of cases from the Pittsburgh Neighborhood Legal Services office and the Mon Valley Unemployed Committee, I have a perspective on these matters honed from well over 25 years of direct and significant involvement in unemployment hearings, having handled significantly over 1,000 cases.

While the lion's share of the proposed regulations are excellent, I have concerns as to the certain of the regulations as noted below.

The proposed revision to section 101.84, Jurisdiction of appeal, at subparagraph (c) that permits the Board to act "...at any time" to alter a case decided by the Referee is too broad and could potentially run afoul of the time limits imposed for finality of decisions of the Referees, in particular if the

Board's action is outside of the current 21-day limit for the Referee's decision to become final. Title 43 P.S. § 829 provides, "Any decision made by the department, or any referee or the board shall not be subject to collateral attack as to any application claim or claims covered thereby *or otherwise be disturbed*, unless appealed from." (emphasis supplied).

The broad power to be delegated to the Board by the proposed revision short circuits the rule of finality and in my view would be contrary to law.

Likewise, the proposed revision to section 101.101, Review by Board, that again permits the Board to act "...at any time" to act on a case already decided by a Referee is too broad and will could violate the time limits imposed for finality of decisions of the Referees, in particular, if the Board's action is outside of the current 21-day limit for the Referee's decision to become final. The points raised above regarding the apparent conflict with Title 43 P.S. § 829 are incorporated by reference here as well.

Similarly, the proposed new regulation, 101.113, Post decision changes by the Board, that permits the Board to issue new and/or amended decisions does not impose any time limitation (other than if a party has already filed an appeal to Commonwealth Court) and again, this could potentially run astray of the rule of finality of Board decisions after 30 days have elapsed. Again, the same conflict with Title 43 P.S. § 829 appears to be present.

Unless there is a mechanism that provides for redress in the administrative process of any Board action that is done outside of the time limits affecting decisions of the Referee and Board, there appears to be a significant due process violation.

With respect to other issues involving the proposed regulations, I note that under the telephone regulations, the current statement in section 101.127, Purpose and scope, that "in-person testimony is normally preferable..." should not be discarded and stricken. This provision could easily remain and co-exist with the new provisions proposed in this subchapter.

Lastly, section 101.130, Notice of [testimony by telephone],etc., at subsection (a), the regulations should provide for both the mailing of the notice of hearing and the proposed "distribution" by presumably electronic means.

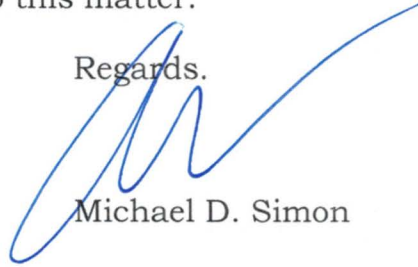
IRRC comments

The appeal hearings are simply too important to rely on only electronic notification of proceedings to claimants and employers.

Experience has shown that paper notification is an effective safeguard to ensure the parties have due process in these proceedings and to avoid time-consuming remands of hearings where a party, for one reason or another, has been unable to properly access an electronic copy of the appeal file.

I thank you for your attention to this matter.

Regards.

A handwritten signature in blue ink, appearing to be 'M. Simon', written over the typed name.

Michael D. Simon

MIS/mds