From: Mallory Kennedy
To: LI, UCBR-RegComm
Cc: Trambley, Melissa
Subject: [External] UC Referee Stakeholder Comments on Proposed Regulation Changes
Date: Monday, June 9, 2025 4:17:38 PM
Attachments: SEIU Response to Proposed Rulemaking 06.09.25.pdf

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Good Afternoon,

Attached, please find the Union's comments and concerns on the proposed rulemaking changes.

Thank you,
Mallory

Mallory Kennedy, Esq.
SEIU 668
W: 717.657.7677 x 121

SEIU 668

2589 INTERSTATE DRIVE
HARRISBURG, PA 17110-9602
MAIN (717) 657-7677
TOLL FREE (800) 932-0368
FAX (717) 657-7662

PRESIDENT STEVE CATANESE • SECRETARY-TREASURER NINA COFFEY

Melissa Trambley
Appeals System Administrator
651 Boas Street, Rm 1114
Harrisburg, PA 17121
via email to RA-LIUCBR-REGCOMM@pa.gov

June 9, 2025

RE: Proposed Rulemaking, 34 Pa. Code, Part VI, Chapter 101, No. 12-120, published May 10, 2025

Dear Administrator Trambley,

SEIU 668 has reviewed the proposed rulemaking changes that were published on May 10, 2025. Below are the concerns and comments that the Union has gathered from the Unemployment Compensation Referees bargaining unit.

101.51

The Union is concerned that this section will lead to unfairness, longer wait times, and confusion of all parties. The issue of parties arriving late is already within the discretion of, and sufficiently handled by, the referees. Hearings may already last an hour with testimony and evidence, and with the proposed changes to the language, so long as the other party shows up at the end of said hour, this forces the referee to "permit" the late party to participate. This is a practical impossibility and actually requires mandatory reopening of a record and rescheduling of a hearing.

Additionally, referees are currently scheduled so tightly, that by requiring a ten-minute waiting period for the case to begin will cause other cases to be called late.

101.84

The Union believes that it would be tedious and inefficient for a second referee to make a decision on an appeal where they did not create the record, and are to determine the appeal based on a record that was created by the initial referee.

101.91

The Union sees that this proposed language will likely be manipulated in order to pressure

referees to change their decisions and give parties another "bite at the apple." The proposed language creates a system where it is unfair both to the non-requesting party and to parties waiting their turn for hearings. Persons who miss their hearings or otherwise claim cause to reopen the hearing record already have a method to request that. It is properly within a referee's discretion to grant or deny reopening. If said party loses, he/she/it may appeal the result. Putting such parties ahead of those who have not yet had their appeals heard is unfair.

101.101

The Union has concerns that this proposed language could be abused and allow the Board and parties to restrict certain referees from conducting specific cases related to particular issues. The Union has already received complaints in situations where particular referees are not permitted to hear cases from specific parties, and this would widen the ability of parties to shop for their referee prior to the case being heard. Additionally, the language does not provide for a situation in which a party may request for “early” appeal to the Board, which lends itself to the above concern.

Finally, the Union is concerned that the non-requesting party would not be notified of a request by the opposing party for a new referee, which enables the appearance of impropriety through ex parte communications, political favoritism, and referee shopping.

101.127-132, generally

The Union opposes almost all of the proposed language changes in sections 101.127-132 as it was drafted without the participation of the referees who perform the work described in these sections. All elements of these sections were designed to increase the number of parties giving testimony and “representing” parties over a telephone line, which creates a lower-quality hearing on its own. It would penalize claimants and employers by creating confusing and long hearings. Unrepresented parties to such hearings, which is typically claimants, are prejudiced by lack of resources allowing them to gather and submit evidence electronically prior to the appeal hearing. Referees have the experience and knowledge to determine which type of hearings would be unworkable with someone testifying by phone, such as those in which a party has a large number of exhibits, where an interpreter is required, and many other factors. This proposed language removed referee discretion and compels them to hold hearings that would be unworkable, and thus, prejudice the claimant.

101.128

The Union reiterates all of the comments provided on February 26, 2024 for this section. These comments are related to concerns that the non-moving party should be notified that the opposing

SEIU 668

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TOLL FREE (800) 932-0368
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party has requested to participate via remote means, and that they may make the same request. Additionally, the Union would like to raise the concern of hybrid hearings, and the issue that these hearings will increase drastically, causing the records for the Board to be worse than if the hearings were conducted either all in-person or all via remote methods.

101.131

The Union reiterates all of the comments provided on February 26, 2024 for this section. The Union remains concerned about the intimidation factor in sub-section (e) and the parties' inference that the referee may be suggesting that the party is not telling the truth.

Additionally, in subjection (j), The Union's position is that this proposed language properly belongs in the procedures manual rather than in the regulations. Furthermore, the Union would request that the department should provide a system where the parties for a remote hearing call into. In the event that a party is disconnected from the call, the onus should be on the party to reach out to the number assigned for the hearing.

Since the initial proposed changes from January 2024, the regulations have added a new subsection within subsection (j), to include that the tribunal "will append 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." This section lends itself to the appearance that multiple attempts should be made by the referee. In the event that multiple disconnects occur during the hearing, either by the same party multiple times, or multiple parties at the same time, the referee must now spend countless time in order to reconnect all parties and document each attempt. The record will potentially be cluttered with notations about each attempted contact as opposed to the time elapsing, and the referee making note that the affected party/parties did not reconnect.

Thank you for your consideration of these comments and concerns that have been raised by the individuals that are performing the work that is directly impacted by the proposed rulemaking changes.

Sincerely,

Mallory Kennedy Esq.

Mallory Kennedy, Esq.
Staff Attorney

SEIU 668

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