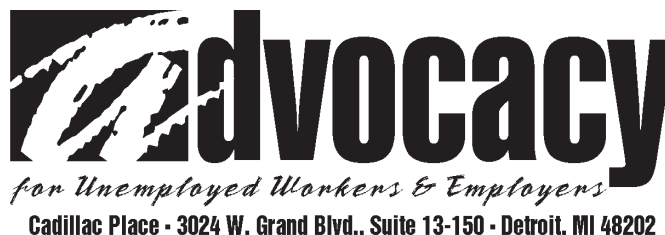


The Administrative Law Appeal Process



What the law says: This issue is covered by Sections 32a, 33, and 34 of the *Michigan Employment Security Act*, and by Rules R 421.1101 to R 421.1317 of the *Michigan Administrative Code*.

When the UIA makes a decision about how much money an unemployed worker will receive in unemployment benefits, or whether a worker is eligible or qualified for benefits, or whether an employer is liable for the payment of unemployment taxes and the amount of the tax, UIA issues a “determination” to both the worker and the employer in a case involving benefits, or to the employer in a case involving employer taxes. In general, the determination will be “in favor” of one party or the other. The party the determination does not favor may “protest” the determination and request a “redetermination.” The request must be made in writing, must be signed by the protesting party (worker or employer or their agent or attorney), and must be filed within 30 days of the date when the determination was issued.

Generally, another UIA employee will then review the case, may ask one or both parties for additional information, and will issue a “redetermination” either affirming (agreeing with), modifying (changing slightly but giving the same result as), or reversing (giving the opposite result from) the determination. The party that disagrees with a redetermination may “appeal” to a hearings officer called an “Administrative Law Judge.” The appeal must be filed with UIA within the 30-day appeal period. It must be signed or verified. An Administrative Law hearing will then be scheduled. At the hearing, the information in the UIA file will be of little value to prove a party’s case; both parties to the case must come prepared to offer fresh, sworn testimony, or other evidence, which can then be questioned by the other party (the process known as “cross examination”).

One of the parties at the hearing will initially have the “burden of proof.” To disqualify a worker, the employer must prove that the worker should be disqualified; the worker can then disagree with the employer’s testimony and present contrary evidence. In a case involving a worker’s efforts to seek work, or the worker’s ability to work or availability for work, the worker has the burden of proof to show he/she should receive benefits, and the employer can disagree and present contrary testimony. (For information on which party has the “burden of proof” for a particular issue, see the individual Fact Sheet

on that issue.)

Appeal from the Administrative Law Judge’s decision may be made to the Michigan Compensation Appellate Commission, a separate entity within the Michigan Administrative Hearing System of the State of Michigan. The appeal period is 30 days. See the Fact Sheet on the “Michigan Compensation Appellate Commission Appeals Process” for further information on that subject.

What court cases have said: Courts have said that when a case goes to a hearing before an Administrative Law Judge, the Notice of the Hearing must tell the parties every issue that the Administrative Law Judge will consider. If the Administrative Law Judge decides at the hearing that another issue must be considered, the Administrative Law Judge must give both parties a chance to come back for a new hearing on a different date after preparing to discuss the new issue.

Often, the Administrative Law Judge must determine the facts from a number of inconsistent (not necessarily untruthful) statements made by the parties. It is up to the Administrative Law Judge to make a finding of facts based on his or her best judgment of where the truth actually lies. Courts have also said that once the Administrative Law Judge has made the decision, the Michigan Compensation Appellate Commission may review and reverse the Administrative Law Judge’s decision based on the facts presented at the Administrative Law hearing.

If a hearing before an Administrative Law Judge is scheduled to be held by telephone, the Notice of Hearing will say that, and will give contact telephone numbers for the parties. It will also give special instructions about sending documents **in advance** to the other party and to the Judge.

For Further Help: The UIA Advocacy Program can provide assistance to employers and/or unemployed workers in preparing for an Administrative Law Judge hearing. Call 1-800-638-3994, Item 2. In addition, the Michigan Administrative Hearing System publishes a booklet entitled “A Guide to UIA Administrative Law Hearings” (Form MHR 1800) that explains in detail how to prepare for an Administrative Law hearing. There is also a 20 minute webcast available on the UIA’s website that explains how the hearing works and how to prepare for it.

The information on this sheet is intended to provide a general understanding of the subject matter.

Form UIA 1982-P

It does not have the force or effect of law or regulation.

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