

# Unemployment Appeals Process



We have compiled this list of frequently asked questions about the **appeals process** to be able to assist you. For more information, please visit our websites: [www.getkansasbenefits.gov](http://www.getkansasbenefits.gov) or [www.dol.ks.gov](http://www.dol.ks.gov); or follow us on Facebook, Twitter, or Instagram.



## **What are my appeal rights?**

If you disagree with the Notice of Determination mailed to you following adjudication of a claim, you may file an appeal with the Kansas Department of Labor within 16 days of the mail date of the determination. Your appeal rights and time limits for filing an appeal are explained on the back of your Notice of Determination.



## **How do I request an appeal?**

Write a letter asking for an appeal and submit it to the Office of Appeals. The letter should include the claimant's name, the last four digits of the claimant's Social Security number, your current address, your phone number, and the determination you are appealing. Send the letter to the Office of Appeals by mail to 401 SW Topeka Boulevard, 2nd Floor Topeka, KS 66603-3182; by fax to 785-296-4065; or by email to [KDOL.Appeals@ks.gov](mailto:KDOL.Appeals@ks.gov).



## **What happens after I file an appeal?**

After you file your appeal, staff in the Office of Appeals will prepare your hearing packet, which includes the letter of appeal, any documentation submitted with the letter of appeal, the determination being appealed, and all documentation previously submitted by both the claimant and the employer to the Kansas Department of Labor that is relevant to the issue appealed. The case will then be scheduled for hearing. Cases are scheduled on a first in, first out basis.



## **How will I learn about the hearing?**

After you request an appeal and your appeal has been scheduled, you will receive a Notice of Telephone Hearing, instructions on how to prepare for your appeal hearing and your hearing packet. The Notice of Telephone Hearing will list the date and time of your hearing. It is important that you follow the directions on the Notice of Telephone Hearing to register for the hearing by providing a telephone number at which to be contacted for the hearing. Register as soon as you receive your hearing notice, but in any event no later than 1 p.m. the business day before the scheduled hearing or you will not be called for the hearing.



### **What do I do after receiving my Notice of Telephone Hearing?**

In order to participate in the hearing, you are required to call the Office of Appeals by 1 p.m. the business day prior to the scheduled hearing and provide a telephone number at which you can be contacted for the hearing. If you do not provide a telephone number by 1 p.m. the business day prior to the hearing, you will not be called for the hearing. It is important that you participate in the hearing because the decision will be based on information you give at the hearing. Failure to take part in the hearing may result in an erroneous decision.



### **What if I am not available at the time of my scheduled hearing?**

If you have good cause why you cannot participate at the scheduled time, you may request to reschedule the hearing—this is called a “continuance.” Good cause is a compelling personal emergency and not simply inconvenience. The request must be made in writing by 1 p.m. the business day prior to the scheduled hearing.



### **Can I have witnesses at the hearing?**

Yes, you can have witnesses at the hearing. All witness names and telephone numbers must be provided to the Office of Appeals by 1 p.m. the business day prior to the hearing.



### **Can I subpoena evidence or witnesses?**

You may request that the Office of Appeals issue a subpoena to obtain necessary witnesses or evidence. The request for a subpoena must be made in writing at least seven days before the hearing date. Your request for a subpoena can be denied, and you can state your objection to the denial at the hearing. You must also attempt to obtain the evidence or witness for the hearing yourself before seeking a subpoena.



### **Can I submit evidence?**

Yes. All evidence must be submitted to both the Office of Appeals and the opposing party no later than 1 p.m. the business day prior to the hearing. If you do not provide the evidence to both parties in advance as required, use of the evidence may be denied. The name and address of the opposing party you should use is listed on the bottom of the Notice of Telephone Hearing.



### **Do I need an attorney?**

Although it is not required, you have the right to be represented by an attorney licensed in the state of Kansas or a duly authorized representative at your hearing. A duly authorized representative is a union representative, a supervised law student, an employee of a corporate employer or an employee of the employer’s cost control firm.

**If I get an attorney, what do I need to do?**

An attorney must file a written entry of appearance before the hearing with the Office of Appeals.

**Who pays for the attorney?**

All attorney fees must be paid by the person or company hiring the attorney. Attorney fees assessed to the claimant must be approved by the Secretary of Labor in accordance with K.S.A. 44-718(b). The Secretary of Labor will not approve fees in excess of 25 percent of the claimant's total benefit amount.

**How is the appeal hearing conducted?**

The appeal hearing will likely be scheduled to take place by telephone. You will be called by the Appeals Referee at the time of your hearing. The opposing party and any additional witnesses or representatives will also appear on the same telephone call. The Appeals Referee will explain the hearing procedures and then both parties will have the opportunity to present their testimony and evidence. Cross-examination is also allowed. Both parties will have the chance to make a final statement before the conclusion of the hearing. After the hearing, the Appeals Referee will consider both the facts and the law and issue a written decision that will be mailed to both parties. You will not be given a decision the day of your hearing.

**What if I need an interpreter or some other accommodation for the hearing?**

Interpreter services or disability assistance will be provided upon request.

**How long will the hearing take?**

Hearings are normally scheduled for 45 minutes to an hour, but the length of the hearings can vary depending on number of witnesses, volume of evidence and types of issues.

**What if I want an in-person hearing?**

In-person hearings are held on a very limited basis if a telephone hearing is not possible. To request an in-person hearing, you must submit the request in writing. The party requesting the in-person hearing may be granted the right to appear in person, but the other party will have the option of appearing via telephone or in person unless the Appeals Referee determines that it would be best for all parties to appear in person. All in-person hearings are held in Topeka, Kansas.



### **How long does the whole process take?**

Your hearing will be set for the first available time after we receive your request. The length of time before your hearing will depend on the number of other appeals to be heard. Appeals Referees are scheduled up to 35 cases per week and the length of time to issue each decision varies widely depending upon the complexity of the case. Your decision will be mailed to you as soon as possible after the hearing.



### **Do I keep filing weekly claims?**

Yes. During the appeal process, you should continue to file your weekly claim for payment for each week you are unemployed. You will not be paid for any week for which you have not filed a weekly claim for payment, even if an appeal decision finds you eligible for benefits.



### **The opposing party filed an appeal. Do I have to participate?**

You are not required to participate. However, failing to participate could negatively impact your benefits (for claimants) or your employer tax liability (for employers). For example, a claimant who has been paid benefits and receives an unfavorable appeal decision could result not only in a loss of future benefits, but also an overpayment of benefits previously paid that the claimant would be required to repay. It is important to appear and participate in the hearing to protect your rights.



### **What if I disagree with the decision of the Appeals Referee?**

Either party may request the decision not in their favor be reviewed by the Employment Security Board of Review (the Board). Instructions for filing that appeal are on the last page of the Appeals Referee's decision. The Board will review the hearing testimony and evidence and will not hold a new hearing or accept additional evidence. You may appeal the Board's decision to the District Court and up through the Court of Appeals and Kansas Supreme Court if you so desire. These additional appeals are at your expense.

For additional information about the appeals process, watch our video tutorials at <https://www.dol.ks.gov/tutorials>.