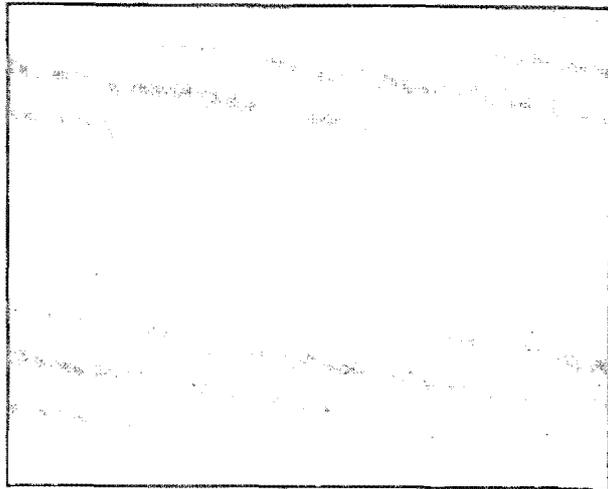


This booklet was prepared to assist you in the appeals process. It is for general information concerning your rights under the Colorado Employment Security Act (CESA). It explains some of the important parts of the law, but does not have the force and effect of the law.

Further information about the appeals process may be obtained by contacting the Industrial Claim Appeals Office at (303) 318-8133.



One final note, read all documents sent to you very carefully, including small print, in order to ensure that your rights are protected.



APPEALING THE HEARING OFFICER'S DECISION

A Guide to higher authority
administrative review

INDUSTRIAL CLAIM
APPEALS OFFICE

COLORADO DEPARTMENT OF
LABOR AND EMPLOYMENT



IC-5 (03/10)
(FORMERLY AS-55)

INDUSTRIAL CLAIM APPEALS PANEL REVIEW

The Industrial Claim Appeals Panel (ICAP or Panel) is the next level of administrative review beyond the Hearing Officer. An explanation of your appeal rights to the Panel is provided at the end of the Hearing Officer's decision. Please read it carefully.

How To Appeal:

Appeals to the Panel must be in writing and received within 20 calendar days of the date the Hearing Officer's decision was mailed. Appeals should be sent directly to the Industrial Claim Appeals Office, and may be filed by mail at P.O. Box 18291, Denver, Colorado 80218-0291, by fax at (303) 318-8139, or by e-mail at icao@state.co.us. If none of those options are available, appeals will be accepted at any Colorado Work Force Center. Any written statement which clearly indicates intent to appeal will be accepted. However, be sure to attach a copy of the Hearing Officer's decision you are appealing.

If your appeal is late, you must include a detailed explanation for your delay that demonstrates "good cause" for excusing the delay.

Transcript Costs:

Currently, there is no preparation charge for the transcript of the hearing when an appeal is filed.

Requests For A New Hearing

In cases where a party has failed to appear at a hearing and wishes only to request a new hearing, the party must submit a written request and include a detailed explanation for the failure to appear. The written request must be received within 20 calendar days of the date the Hearing Officer's decision was mailed. A party is considered to have "appeared" at the hearing if either the party or a designated representative participated in the hearing.

If your new hearing request is late, you must include a detailed explanation for your delay that demonstrates "good cause" for excusing the delay.

Parties wishing to appeal a hearing officer's decision if a new hearing is not granted should submit both the appeal and the new hearing request within 20 calendar days of the date the hearing officer's decision was mailed. An appeal and new hearing request may be written in the same document.

Notices and Written Arguments:

After an appeal is properly filed with the Panel, a "Notice of Appeal To Industrial Claim Appeals Panel" will be mailed to all interested parties. A copy of the appeal is also provided to the non-appealing party.

Later, a transcript of the hearing will be prepared and mailed to each party (see Transcript Costs). This gives interested parties an opportunity to review the evidence presented at the hearing and prepare written arguments. Twelve (12) calendar days are normally permitted for submitting written arguments.

However, parties are not required to file written arguments. Written arguments provide parties an opportunity to explain in detail why they feel the Hearing Officer's decision should stay the way it is or why it should be changed. If you feel your appeal statement or other documents already in the record clearly explain your position, you may choose not to file a written argument.

There is no particular format to be followed when submitting a written argument. Most parties do so by letter in which they outline the points they wish the Panel to consider. If you feel the Hearing Officer failed to give sufficient weight to certain evidence, improperly ruled against requests you made during the hearing, that the decision is not supported by the evidence or is incorrect as a matter of law, this is an appropriate time to bring out these or other issues. If there are specific examples in the transcript that support your position, refer to them by page number in your written argument. The Panel has its own

copy of the transcript, so please do not send your copy of the transcript with the written argument.

When preparing a written argument, be sure to include the name and Social Security Number of the claimant (or company name, if a tax liability matter) and the docket number

Panel Actions

The Panel does not hold a hearing on the issue(s) being appealed. At least two Panel members review the testimony presented at the hearing and any other evidence in the record before the Hearing Officer. The Panel then makes its decision based on this review, the appeal statement, written arguments and applicable law. The Panel cannot change the hearing officer's decision based on any "new" evidence you failed to produce at the hearing. However, the Panel occasionally may remand (return) the case to the Hearing Officer to take additional evidence. If the Panel does not find it necessary to remand the case, the Panel will issue an order that either will affirm (keep the same), modify, or reverse the Hearing Officer's decision.

The Panel is the final authority for the Colorado Department of Labor and Employment. Parties not satisfied with the Panel's order may appeal to the Colorado Court of Appeals within 20 days from the date the Panel's order was mailed. However, only a FINAL ORDER of the Panel can be appealed to the Court of Appeals. Orders that remand a case to the Hearing Officer or take other action short of resolving the issue(s) in dispute are not "FINAL" orders.

Instructions for appealing a case to the Colorado Court of Appeals are provided at the end of the Panel's Final Orders. Like the Panel, the review of the Court of Appeals is based upon the evidence previously in the record before the Hearing Officer, the appeal statement, written arguments or briefs, and applicable law.

For further information, contact the Industrial Claim Appeals Office by telephone at (303) 318-8133.