



**Substitute House Bill No. 5232**

**Public Act No. 12-125**

**AN ACT CONCERNING HEARINGS BEFORE THE ADMINISTRATOR AND THE EMPLOYMENT SECURITY APPEALS DIVISION UNDER THE UNEMPLOYMENT COMPENSATION ACT.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Subsection (a) of section 31-241 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2012*):

(a) The administrator, or a deputy or representative designated by him and hereinafter referred to as an examiner, shall promptly examine the initiating claim and, on the basis of the facts found by him, shall determine whether or not such claim is valid and, if valid, the weekly amount of benefits payable and the maximum possible duration thereof. He shall promptly notify the claimant of the decision and the reasons therefor, which notification shall set forth the provision of this section for appeal. The administrator or an examiner shall promptly examine each claim for a benefit payment for a week of unemployment and, on the basis of the facts found by him, shall determine whether or not the claimant is eligible to receive such benefit payment for such week and the amount of benefits payable for such week. The determination of eligibility by the administrator or an examiner shall be based upon evidence or testimony presented in such

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a manner as the administrator shall prescribe, including [in person,] in writing, by telephone or by other electronic means at a hearing called for such purpose. The administrator or an examiner may prescribe an in person hearing at his or her discretion, provided if an in person hearing is requested, the request may not be unreasonably denied by the administrator or an examiner, as the case may be. Notice of the decision and the reasons therefor shall be given to the claimant. The employers against whose accounts charges may be made due to any benefits awarded by the decision shall be notified of the initial determination of the claimant's benefit entitlement at the time notice is given to the claimant, which notification shall set forth the provisions of this section for appeal, provided any employer who claims that the claimant is ineligible for benefits because his unemployment is due to the existence of a labor dispute at such employer's factory, establishment or other premises, shall be notified of the decision and the reasons therefor, whether or not benefits awarded by the decision might be charged against such employer's account. The employer's appeal rights shall be limited to the first notice he is given in connection with a claim which sets forth his appeal rights, and no issue may be appealed if notice of such issue and the right to appeal such issue had previously been given. Notwithstanding any provisions of this chapter to the contrary, whenever the employer, after receiving notice of such hearing, fails to appear at the hearing or fails to timely submit a written response in a manner prescribed by the administrator, such employer's proportionate share of benefits paid to the claimant prior to the issuance of a decision by a referee under section 31-242 for any week beginning prior to the forty-second day after the end of the calendar week in which the employer's appeal was filed shall be charged against such employer's account and the claimant shall not be charged with an overpayment with respect to such benefits pursuant to subsection (a) of section 31-273. The decision of the administrator shall be final and benefits shall be paid or denied in accordance therewith unless the claimant or any of such employers,

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within twenty-one calendar days after such notification was mailed to his last-known address, files an appeal from such decision and applies for a hearing, provided (1) any such appeal which is filed after such twenty-one-day period may be considered to be timely filed if the filing party shows good cause, as defined in regulations adopted pursuant to section 31-249h, for the late filing, (2) if the last day for filing an appeal falls on any day when the offices of the Employment Security Division are not open for business, such last day shall be extended to the next business day, and (3) if any such appeal is filed by mail, such appeal shall be considered timely filed if it was received within such twenty-one-day period or bears a legible United States postal service postmark which indicates that within such twenty-one-day period it was placed in the possession of such postal authorities for delivery to the appropriate office. Posting dates attributable to private postage meters shall not be considered in determining the timeliness of appeals filed by mail. Where the administrator or examiner has determined that the claimant is eligible for benefits, benefits shall be paid promptly in accordance with the determination regardless of the pendency of the period to file an appeal or the pendency of such appeal. No examiner shall participate in any case in which he is an interested party. Any person who has filed a claim for benefits pursuant to an agreement entered into by the administrator with the proper agency under the laws of the United States, whereby the administrator makes payment of unemployment compensation out of funds supplied by the United States, may in like manner file an appeal from the decision of such claim and apply for a hearing, and the United States or the agency thereof which had employed such person may in like manner appeal from the decision on such claim and apply for a hearing.

Sec. 2. Section 31-237j of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2012*):

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(a) The referees shall promptly hear and decide appeals from the decisions of the administrator of this chapter, or his designee, appeals from all other determinations made pursuant to any provision of this chapter and appeals from any proceeding conducted by authorized personnel of the Employment Security Division pursuant to directives of the United States of America and the Secretary of Labor of the United States. Except as otherwise provided in this chapter or in the applicable federal directives, appeals to referees shall be filed within the time limits and under the conditions prescribed in section 31-241, as amended by this act.

(b) The referees shall have state-wide jurisdiction and venue, and referee proceedings shall be conducted [throughout the state in such places as are reasonably convenient for the parties] (1) by telephone or other electronic means, or (2) at the request of either party, in person at locations within the state designated by the executive head of the Employment Security Appeals Division.

(c) The chief referee may appoint a panel of three referees to hear and decide any appeal involving (1) complex issues of fact, (2) complex issues of law, (3) multiple parties, or (4) numerous witnesses. The decision on all such appeals shall be by a majority vote of the full panel.

Approved June 15, 2012