



General Assembly

Substitute Bill No. 5232

February Session, 2012

* _____HB05232LAB___031612_____*

**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:

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2 repealed and the following is substituted in lieu thereof (*Effective*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

4 (a) The administrator, or a deputy or representative designated by
5 him and hereinafter referred to as an examiner, shall promptly
6 examine the initiating claim and, on the basis of the facts found by
7 him, shall determine whether or not such claim is valid and, if valid,
8 the weekly amount of benefits payable and the maximum possible
9 duration thereof. He shall promptly notify the claimant of the decision
10 and the reasons therefor, which notification shall set forth the
11 provision of this section for appeal. The administrator or an examiner
12 shall promptly examine each claim for a benefit payment for a week of
13 unemployment and, on the basis of the facts found by him, shall
14 determine whether or not the claimant is eligible to receive such
15 benefit payment for such week and the amount of benefits payable for
16 such week. The determination of eligibility by the administrator or an
17 examiner shall be based upon evidence or testimony presented in such
18 a manner as the administrator shall prescribe, including [in person,] in
19 writing, by telephone or by other electronic means at a hearing called

20 for such purpose. An administrator may prescribe an in person
21 hearing at his or her discretion. Notice of the decision and the reasons
22 therefor shall be given to the claimant. The employers against whose
23 accounts charges may be made due to any benefits awarded by the
24 decision shall be notified of the initial determination of the claimant's
25 benefit entitlement at the time notice is given to the claimant, which
26 notification shall set forth the provisions of this section for appeal,
27 provided any employer who claims that the claimant is ineligible for
28 benefits because his unemployment is due to the existence of a labor
29 dispute at such employer's factory, establishment or other premises,
30 shall be notified of the decision and the reasons therefor, whether or
31 not benefits awarded by the decision might be charged against such
32 employer's account. The employer's appeal rights shall be limited to
33 the first notice he is given in connection with a claim which sets forth
34 his appeal rights, and no issue may be appealed if notice of such issue
35 and the right to appeal such issue had previously been given.
36 Notwithstanding any provisions of this chapter to the contrary,
37 whenever the employer, after receiving notice of such hearing, fails to
38 appear at the hearing or fails to timely submit a written response in a
39 manner prescribed by the administrator, such employer's
40 proportionate share of benefits paid to the claimant prior to the
41 issuance of a decision by a referee under section 31-242 for any week
42 beginning prior to the forty-second day after the end of the calendar
43 week in which the employer's appeal was filed shall be charged
44 against such employer's account and the claimant shall not be charged
45 with an overpayment with respect to such benefits pursuant to
46 subsection (a) of section 31-273. The decision of the administrator shall
47 be final and benefits shall be paid or denied in accordance therewith
48 unless the claimant or any of such employers, within twenty-one
49 calendar days after such notification was mailed to his last-known
50 address, files an appeal from such decision and applies for a hearing,
51 provided (1) any such appeal which is filed after such twenty-one-day
52 period may be considered to be timely filed if the filing party shows
53 good cause, as defined in regulations adopted pursuant to section 31-
54 249h, for the late filing, (2) if the last day for filing an appeal falls on

55 any day when the offices of the Employment Security Division are not
56 open for business, such last day shall be extended to the next business
57 day, and (3) if any such appeal is filed by mail, such appeal shall be
58 considered timely filed if it was received within such twenty-one-day
59 period or bears a legible United States postal service postmark which
60 indicates that within such twenty-one-day period it was placed in the
61 possession of such postal authorities for delivery to the appropriate
62 office. Posting dates attributable to private postage meters shall not be
63 considered in determining the timeliness of appeals filed by mail.
64 Where the administrator or examiner has determined that the claimant
65 is eligible for benefits, benefits shall be paid promptly in accordance
66 with the determination regardless of the pendency of the period to file
67 an appeal or the pendency of such appeal. No examiner shall
68 participate in any case in which he is an interested party. Any person
69 who has filed a claim for benefits pursuant to an agreement entered
70 into by the administrator with the proper agency under the laws of the
71 United States, whereby the administrator makes payment of
72 unemployment compensation out of funds supplied by the United
73 States, may in like manner file an appeal from the decision of such
74 claim and apply for a hearing, and the United States or the agency
75 thereof which had employed such person may in like manner appeal
76 from the decision on such claim and apply for a hearing.

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

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

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

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

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2012</i>	31-241(a)
Sec. 2	<i>October 1, 2012</i>	31-237j

LAB *Joint Favorable Subst.*