

UNEMPLOYMENT INSURANCE

APPEALS

WWW.DOL.STATE.GA.US

Accommodations For People With Disabilities And Language
Translation Services Available Upon Request

ATTENTION

NOTICE OF LAW CHANGE

Appeals Hearings

Effective June 2, 2014, all appeal hearings will be routinely conducted by telephone. See Georgia 2014 House Bill 714, Section 10 (O.C.G.A. §50-13-2).

Accommodations for people with disabilities and language translations services are available upon request. If you require accommodations or language translation, advise the Appeals Tribunal by email, fax, or mail immediately at:

Georgia Department of Labor
Appeals Tribunal

148 Andrew Young International Blvd. NE, Suite 525
Atlanta, GA 30303-1734

E-mail: appeals@gdol.ga.gov

Fax: 404.232.3901

Be sure to carefully read and follow the instructions within the *Appeals Handbook*. All instructions still apply except those related to in-person hearings.

Important Reminder!

If you have filed a claim for unemployment insurance, continue to claim benefits each week while your appeal is pending. **If you stop claiming benefits while your appeal is pending, you cannot receive payment for those weeks should you win your appeal.** If you do not understand your reporting requirements, contact your Georgia Department of Labor (**GDOL**) Career Center.

NOTICE: The department will provide an interpreter for the hearing or voice impaired and for those individuals with limited English proficiency. Individuals with hearing or voice impairment may contact the Georgia Relay Center at 1-800-255-0056 to access GDOL services. Should you require assistance with documents that you have received you may take them to your local Career Center for translation. These services are provided at no cost to you.

Any communication concerning your appeal hearing should be directed to the Appeals Tribunal.

GEORGIA DEPARTMENT OF LABOR

148 ANDREW YOUNG INTERNATIONAL BLVD NE STE 525
UI APPEALS TRIBUNAL
ATLANTA, GA 30303-1734

FAX 404-232-3901

TEL 404-232-3900

E-MAIL appeals@gdol.ga.gov

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Georgia
DOL
DEPARTMENT OF LABOR

MARK BUTLER, COMMISSIONER

The Appeals Process

Claimants and employers have the right to appeal any decision that affects the receipt of unemployment insurance benefits.

Two Levels of Appeal

- **The first level of appeal** is filed to the Appeals Tribunal. This is a unit of the GDOL with administrative hearing officers who hear and decide appeals.
- **The second level of appeal** is to the Board of Review. The Board is a three-member panel appointed by the governor. You must receive a decision from the hearing officer before you can appeal to the Board.
(For more information on appeals to the Board - see Page 16.)

Filing the First Level of Appeal

Date for the Hearing

IMPORTANT: If you have any dates you are not available, or any other special scheduling requests, that information should be provided immediately to the Appeals Tribunal upon receipt of your notice of appeal.

Telephone and In-Person Hearings

Appeal hearings are conducted in whole or in part by telephone based on:

- The location of the parties.
- The complexity of the case.
- Timely disposition of cases as required by federal guidelines.
- Good cause shown, such as hearing impairment or language interpretation difficulties.
- Other pertinent factors.

If you are requesting an in person hearing, you must advise the Appeals Tribunal by email, fax or mail immediately. The email address is appeals@gdol.ga.gov. The fax number is 404-232-3901. The mailing address is

GEORGIA DEPARTMENT OF LABOR
148 ANDREW YOUNG INTERNATIONAL BLVD NE STE 525
UIAPPEALS TRIBUNAL
ATLANTA, GA 30303-1734

In person hearings are scheduled according to the **Rules of the Georgia Department of Labor**, Chapter 300-2-5-.02 (2) (a). The decision to schedule an in person hearing will be based on 1) the location of the parties, 2) the complexity of the case, and 3) other pertinent factors.

When you request an in person hearing, this may delay the date of the hearing. Also, the party requesting an in person hearing must travel to the hearing location nearest the other party or closest to both parties.

Timely Appeal

When filing an appeal, explain in detail why you are appealing, identify the exact determination you are appealing and include a social security number. Appeals must be filed, in writing, within 15 days of the date the determination was mailed. If the 15th day falls on a Saturday, Sunday, or a legal holiday, the next working day is used in considering whether the appeal is timely.

These dates will be used to determine if the appeal is timely:

- The date the appeal is hand delivered or faxed to a GDOL office.
- The date of the U.S. Postal Service cancellation stamp (a postage meter imprint cannot be used.)

If it appears that the appeal is not filed within the 15 day limit, your appeal could be dismissed, without a hearing, as untimely.

Withdrawing Your Appeal

If you are the person who appealed, you may request in writing that your appeal be withdrawn. Mail, fax or e-mail your request to the address shown in the front of this booklet. Explain why you are withdrawing your appeal and include the social security number and/or the docket number on all correspondence. Appeals can only be withdrawn by the appealing party.

The Hearing Notice

The Appeals Tribunal will schedule your hearing and a Hearing Notice will be mailed to all parties. Contact the Appeals Tribunal if you do not receive your Hearing Notice within three weeks of filing your appeal.

The hearing notice will tell you:

- The date, time and place of the hearing.
- Whether the hearing is in person or by telephone.
- The issue or issues which will be discussed at the hearing.
- Instructions for participating in the hearing.
- The name of the hearing officer.

Note: The hearing officer cannot discuss the case with you before the hearing begins or after the conclusion of the hearing.

Read your hearing notice carefully.

1. Follow all instructions on the hearing notice.
2. Make sure all issues you want covered in the hearing are listed.
3. Take note if your hearing is by telephone or in person.
4. Time shown is Eastern Time. Therefore, if you live in a different Time zone, be aware of the time difference.

Call the Appeals Tribunal if:

- The telephone number is incorrect or is not shown.
- The notice does not list the issues you expect to be covered.

If You Need to Postpone a Hearing

The Rules of the Georgia Department of Labor allow only the Chief Administrative Hearing Officer, or a designee, to postpone a hearing for good cause. The request **MUST** be made at the earliest practical time and should be in writing, giving detailed reasons for the request. A request for postponement will only be granted for an extreme emergency.

FAX 404-232-3901
EMAIL appeals@gdol.ga.gov

You should include any documentation to support the reason, such as medical excuses, appointments for job interviews, jury duty, etc. If you are not notified that your postponement has been granted, you should plan to participate in the hearing as scheduled.

The Rules provide that, in the absence of very unusual circumstances, a business engagement will not constitute good cause to postpone an appeal.

If You Miss Your Hearing

You may request to reopen your appeal. Requests to reopen should fully state:

- The grounds for the request.
- The reasons for not attending the original hearing.

A Show Cause hearing will be scheduled to determine if good cause has been shown to reopen the appeal. Good cause is defined as circumstances beyond the control of the parties. Situations may include, among other factors, a disabling personal illness, a death in the immediate family, jury duty or military obligation. You must show the hearing officer that you had circumstances beyond your control which caused you to miss your first hearing.

The Rules provide that, in the absence of very unusual circumstances, a business engagement will not constitute good cause to reopen an appeal.

Preparing for the Hearing

Gathering the Evidence

You should begin to gather the documents or other evidence necessary to present your case as soon as you know that an appeal has been filed. Prepare all evidence that supports your position, including any documents previously submitted to GDOL. A copy of relevant documents from the claim file will be mailed to you with the Notice of Appeal Filing.

Although you cannot read your testimony at the hearing, you may want to make notes to help you remember important facts. The hearing officer cannot accept any evidence after the hearing is conducted.

The hearing officer will only take evidence that is relevant and necessary to decide the case.

Some examples of written material that may be introduced into evidence are:

- Time cards, payroll records.
- Warning notices, company rules.
- Medical reports.

Note: Written statements, either sworn or unsworn, do not constitute evidence and will not usually be admitted unless the party or witness who made the statements attends the hearing.

Video/Audio Recordings

Either party may introduce video or audio recordings into evidence at your hearing. To introduce any recording you must be prepared to identify and authenticate the recording. The Hearing Officer will not consider testimony about a recording without that recording being properly entered into evidence.

Obtaining Documents or other Evidence for the Hearing

You may request that the Appeals Tribunal issue a subpoena for documents or other evidence in the possession of another party, when that party will not voluntarily provide it.

You must identify the documents or other evidence requested and the full name and address of the party in possession of the evidence. You must also state why you believe the documents or other evidence are necessary in your case. If the evidence sought is not relevant to the appeal, the request will be denied.

IT IS YOUR RESPONSIBILITY to ensure the appropriate individual receives the subpoena no less than 72 hours before the hearing. It may be hand delivered or sent by certified mail.

Submit Copies of Documents

Prior to the hearing:

- Send the Appeal Tribunal copies of all evidence you intend to submit. This includes documents and video/audio recordings.
- Send a copy of all evidence you intend to rely on in your hearing to the other party. This includes documents and video/audio recordings.

NOTE: Failure to send documents or other evidence to ensure receipt in time for the hearing could result in delay or rescheduling of the hearing.

NOTE: If you receive documents or other evidence from the other party, be prepared to ask or answer questions about that evidence at the hearing.

The day of the hearing:

- Bring all documents or other evidence to the hearing or have it with you if the hearing is by telephone.
- Let your Hearing Officer know that you have documents or other evidence that you would like to have introduced into evidence.
- Have your documents or other evidence ready for reference during the hearing.

If you receive documents from the other party, read them prior to the hearing so that you can answer any questions from the hearing officer or the other party.

Witnesses

You have the right to present testimony of witnesses. The hearing officer, however, will not allow repetitive evidence or evidence that is not relevant to the case. There is no need to bring several witnesses to testify to the same occurrence or facts. You may need more than one witness, however, to cover different occurrences or facts.

You must notify your witnesses of the hearing and provide their telephone numbers to the Appeals Tribunal if the hearing is by telephone. If your witness will not agree to testify, contact the Appeals Tribunal. If the witness is necessary to your case, the Appeals Tribunal can issue a subpoena, which will compel the witness to testify. The person requesting the subpoena must show the necessity of a subpoena before it is issued.

NOTE: Requests for subpoenas must be received by the Tribunal no later than three days before the scheduled hearing date.

The request for the subpoena must contain the following information:

1. Docket number of the appeal or social security number of the claimant.
2. Full name, address and telephone number of the witness for whom the subpoena is to be issued and what the witnesses testimony will show.
3. Time and place of the hearing.
4. A detailed description of any documents or other evidence to be produced by the witness and what the evidence will show.

Remember: It is your responsibility to deliver any subpoena no less than 72 hours before the hearing.

If You Have Been Served a Subpoena

If you have been served with a subpoena to present documents or other evidence, the documents or other evidence must be mailed, delivered or faxed to the Appeals Tribunal. Evidence must be received by the Appeals Tribunal at least 36 hours before the hearing.

A copy of the subpoenaed evidence must also be sent to the party who made the request for the evidence. Include the docket number of the case on each page of the documents and on the outside of recordings or other evidence.

Attorney or Other Authorized Representative

If you have a representative and you notify the Appeals Tribunal BEFORE the notice of hearing is mailed, notice may be sent to your representative. **However, it is your responsibility to be sure your representative knows the date and time of the hearing.**

Attorney Fees

The counsel or representative for the claimant must submit a written application to the Board of Review for fee approval before charging or receiving any payment for services. Upon receipt of the application, the Board of Review will release a written order of the amount approved to both the representative and client.

The fee for a claimant's representative will be set and approved by the Board of Review; however, the fee must be paid by the claimant. A party who is unable to afford legal assistance may request representation from one of the free legal advisory services in the community.

Note: An individual claiming benefits may be represented by an attorney or other duly authorized agent. The fee charged by the attorney or agent is regulated in the Official Code of Georgia Annotated (O.C.G.A.) 34-8-251 and Section 300-2-5-.04 (1) of the Rules of the Georgia Department of Labor. No representative shall either charge or receive a fee for more than the amount approved by the Board of Review.

Researching the Law

The hearing officer is knowledgeable of unemployment insurance law and will summarize the legal issues and procedure at the hearing. If you wish to familiarize yourself with the law before the hearing, you can review the Georgia Employment Security Law (O.C.G.A. 34-8) and the regulations governing the unemployment insurance program on GDOL's website www.dol.state.ga.us.

The exact provisions of law which govern your case will be shown on the hearing notice.

Interpreters

The department will provide an interpreter for the hearing or voice impaired and for those individuals who do not speak or understand English.

If you require an interpreter for yourself or your witness in an appeal hearing, you must advise the department at the time you file your appeal. Please indicate on your Appeal form or letter that interpreter services are needed. If you did not request an interpreter at the initial filing, and you desire an interpreter, you should contact the Appeals Tribunal at least 48 hours before your scheduled hearing.

Address and Telephone Number Changes

Failure to advise the Appeals Tribunal of an address or telephone number change, in writing, will not be good cause to have the hearing rescheduled. Georgia Department of Labor has online access to make changes to a participant's address or telephone number. The internet address is <http://ga.c2tinc.com/register>. To access this online registration, you must have received a Notice of Appeal Hearing letter from the UI Appeals Tribunal, stating a docket number, date, and time of a scheduled hearing. Changes to a participant's address or telephone number may be faxed to 404-232-3901. Also, changes may be emailed to appeals@gdol.ga.gov.

Claimant: Notify the Career Center and the Appeals Tribunal immediately, in writing, if your address or telephone number changes after an appeal has been filed. **Changing your address at the Career Center does not change your address on appeal records.**

Employer: If your address or telephone number changes following the filing of an appeal, or if you wish to record an additional address or telephone number, notify the Appeals Tribunal, in writing, immediately.

The Hearing

Information About the Appeal Hearing

At the time of the hearing each person who gives testimony will be under oath. The hearing officer will make a decision based on the sworn testimony given by the parties, witnesses who participate in the hearing and documents entered into the record of the hearing.

Be prepared to present evidence under oath on all issues listed on the notice of hearing. The hearing will be recorded (see Page 15.)

Hearing by Administrative Hearing Officer

The hearing officer:

- Has a duty to provide a fair and courteous hearing to all parties.
- Will control the hearing to prevent intimidation or discourtesy.
- Will assist parties when necessary in presenting their case.
- Will not allow interference from any party during the hearing.
- Will not discuss any case before or after the hearing.

In conducting the hearing, the hearing officer will:

1. Explain the issues to be discussed, the purpose of the hearing and the procedures.
2. Place all parties and witnesses under oath.
3. Review the file with the parties.
4. Explain the manner in which persons will testify and give rebuttal.
5. Assist parties in asking questions of other parties and witnesses.
6. Determine on personal motion or at the request of a party if testimony and documents being offered should be accepted and considered.
7. Question parties and witnesses to obtain necessary facts.
8. Take official notice of well established matters of common knowledge and public record.
9. Allow you to make a closing statement to explain your position.

Each party has the right to:

1. Testify personally.
2. Present documents or other evidence gathered and submitted.
3. Have material witnesses testify.
4. Question opposing parties and witnesses.
5. Explain or rebut evidence.
6. Examine documents or other evidence submitted into the hearing record from the claimant's benefit file.
7. Examine all documents and other evidence introduced at the hearing.
8. Make a statement at the end of the hearing.

Be Prompt

The hearing officer will wait 10 minutes for the parties to appear. After 10 minutes, the hearing will begin if the appealing party is available. If the appealing party is not available, the case will be dismissed.

Telephone Hearings

Administrative hearing officers are stationed at different telephone locations when conducting hearings. Your telephone Caller ID block must be off to accept any number being used by an administrative hearing officer to call you. Failure to comply with this request could result in your missing the hearing.

Claimant: Be at the telephone number you provided at the scheduled time. Have witnesses with relevant knowledge of the separation available at the time of hearing.

Employer: Have the individual(s) with firsthand knowledge of the separation present at the time of the hearing.

In-Person Hearings

Be sure you understand when and where your hearing is to be held and try to arrive early for in-person hearings.

During the Hearing:

- Speak slowly and clearly.
- If you are disconnected during a telephone hearing, hang up. The Hearing officer will call you again to resume the hearing.
- Do not interrupt the testimony being given by the opposing party. You will have a chance to answer or rebut anything being said and to ask questions.
- Make written notes during the testimony to help you remember the questions you would like to ask when you are allowed to cross examine the witness.
- Have a calendar available for reference during the hearing.
- Know the beginning and ending dates of employment with the employer.

If You Do Not Attend

If you are the person who appealed and you do not participate in the hearing, the hearing officer may dismiss the appeal or uphold the appealed decision.

If you are not the person who appealed and you choose not to attend, the hearing will proceed without you.

Representation

The hearing officer will explain hearing procedures and safeguard the rights of all parties during the hearing. However, an attorney or any other person of your choice may represent you, at your own expense.

You must provide the Appeals Tribunal with the name and telephone number of your representative prior to the hearing (see Page 10.)

Confidentiality

Unemployment benefit and tax records are confidential and may be released only for specific purposes as spelled out in O.C.G.A. 34-8-121.

Continuances

While conducting the hearing, the hearing officer may find reasons to continue the case to another date. The parties will be notified in writing of the date and time of the continued hearing.

Records for the Hearing

To submit a document at a hearing, it must be identified by you or another person who is familiar with the document. A person who made or signed the document, or someone who is otherwise personally familiar with the document, can identify and authenticate it. This is called authentication. You must also ask the Hearing Officer to admit the document into evidence.

Business records require more than just authentication. You or another witness must:

- identify the business record (just like other documents)
- explain why and how the business record is maintained
- testify that the business record is routinely made at the time the event is recorded or within a reasonable time thereafter and
- ask the Hearing Officer to admit the business record into evidence (just like other documents).

The business record must show facts about an incident or event and not opinions.

NOTE: The Hearing Officer will not accept written statements by a witness who is not available at the hearing to testify, even if the statement is notarized.

Video or Audio Recordings

Recordings may be used and admitted into evidence at the hearing. In order to be admitted, the video or audio recording must be identified/authenticated (just like other documents). To authenticate a recording, you must:

- Provide a witness who was present at the events recorded and who can testify that the recording accurately and fairly depicts the event, or
- Provide a witness who can testify that the recording reliably shows the fact or facts to be proven and that the recording itself indicates the time and date when the recording was made.
- Ask the Hearing Officer to admit the recording into evidence.

Recording the Hearing

The administrative hearing officer will record the entire hearing. The record is for department reference only, to be used if an appeal is filed to the Board of Review, or for other internal purposes.

The law says that only the GDOL or the Board of Review may tape a hearing involving a claim for benefits or an appeal hearing. However, the law does provide that you or another person may record the hearing if written permission is received by the Appeals Tribunal from all interested parties prior to the hearing. The person requesting to record the hearing must obtain the written permission from the other party.

The recording can be used only for unemployment compensation purposes. It cannot be used as the basis for any suit for slander or libel in any court, pursuant to O.C.G.A. 34-8-122.

After The Hearing

The Decision of the Hearing Officer

The hearing officer will release a decision to be mailed to all interested parties as soon as possible after the hearing.

The written decision will:

- Include findings of fact, conclusions of law and the decision itself.
- Show whether the hearing officer affirmed, reversed or modified the original determination of the claims examiner or the prior hearing officer's decision.

If you disagree with the hearing officer's decision, you have the right to appeal the decision to the Board of Review within 15 days of the release date of the decision.

“Show Cause” Appeals

If you were unable to attend the hearing due to circumstances beyond your control, and you disagree with the hearing officer's decision, you must file a "show cause" appeal with the Appeals Tribunal within 15 days of the release date of the decision. A hearing will then be scheduled to determine if good cause has been shown to reopen the appeal. For additional information on “show cause” please refer back to page 6.

Appeals to the Board of Review

The Board of Review is a three-member panel appointed by the Governor to review decisions of the administrative hearing officers when an appeal is filed by any of the interested parties. The Board's decision will affirm, modify or reverse the decision of the hearing officer or remand the case for the taking of additional evidence.

If you wish to appeal the decision of the hearing officer, you must file an appeal to the Board of Review within 15 calendar days of the release date of the decision.

The appeal must be in writing and it should be sent directly to the Board of Review (the address is on the decision.) If your appeal is sent to the Career Center, or appealed in person at the Career Center, processing will be delayed until it can be forwarded.

SPECIAL NOTE: The Board accepts NO new evidence or testimony. A decision is made based ONLY on the evidence and testimony that was previously presented in the hearing before the administrative hearing officer.

Written Argument

- The Board of Review will mail a notice acknowledging the receipt of an appeal and advise of the time frame allowed for written arguments.
- Interested parties may submit a written argument stating their position for consideration by the Board in making its decision. The argument should be based only on testimony and evidence presented at the appeal hearing.

Oral Argument

Requests to present oral argument may be granted at the Board's discretion. Oral argument means appearing in person before the Board, in Atlanta, to present statements and arguments for your position in the appeal.

Oral argument must be based only on testimony and evidence presented at the appeal hearing.

- You must have made a written request to present oral argument no later than 10 days following the mailing of the acknowledgment letter from the Board, **and**
- You must have received written approval from the Board. If the Board agrees to hear oral argument, it will notify both parties of the time and place to appear.

Any party may file a written request for reconsideration to the Board within 15 days of the release date of the decision. The decision of the Board will be mailed to all interested parties. Any decision of the Board of Review, in the absence of a reconsideration, shall become final 15 days from the release date of the decision.

Procedures for Judicial Review

If you disagree with the decision of the Board of Review, you may request judicial review by filing a petition in the Superior Court in the county in which the work was performed within 30 days from the release date of the Board of Review decision. If you last worked in another state, the petition must be filed in Fulton County, Georgia.

Employees of the GDOL cannot furnish guidance or otherwise assist you in this process. If you do not know the proper procedures to follow, you can contact the Superior Court clerk or seek legal advice.

Claimant Liability - Potential Overpayment

If any determination allowing benefits is reversed, the CLAIMANT WILL BE REQUIRED TO REPAY THE BENEFITS RECEIVED during the period of disqualification as specified in the decision by the Administrative Hearing Officer, Board of Review or the court.

Employer Tax Charges

The most recent employer's account will be charged for any benefits paid to the claimant based on the separation decision. If the original determination allowing benefits is reversed in the appeals process, the employer must have furnished timely written separation information to the department to receive credit on the employer's account. This applies also to employers who qualify for, and have elected, the reimbursable method.

GENERAL INFORMATION

Should I wait to file an appeal until I can gather my evidence?

No. If you wait beyond the 15-day appeal period to file your appeal, the Appeals Tribunal may not have the authority to make a decision on your benefit entitlement. You should file the appeal and then make every attempt to obtain the needed evidence before the hearing date.

What if I can't afford an attorney or other legal representation?

The hearing officer is charged with the task of ensuring that your rights are protected. The hearing officer will aid you throughout the hearing, provided you ask for help or you have otherwise shown you need assistance. You may also have a friend or family member help as your representative in the hearing.

Will my former employer be at the hearing?

The employer named in a separation determination is always an interested party and is given notice of the hearing. The Tribunal does not usually compel employers to appear for the hearing. An employer may choose not to attend a hearing.

How long does a hearing take?

The length of the hearing depends on the amount of evidence, the number of witnesses and the complexity of the facts. A typical hearing will last 30 to 45 minutes and be completed in a single hearing session. Most hearings are allotted one hour for completion.

What if I'm working and can't be at the hearing?

The fact that you are working does not automatically allow you to miss your hearing.

Should I continue to file my weekly certifications while waiting for the appeal hearing/decision?

Yes. If you are successful on appeal, you will not get paid for any weeks for which you did not file.

What happens if I am being paid unemployment benefits and I lose the appeal?

If the Administrative Hearing Officer, Board of Review or a court reverses a determination that allowed benefits, you will be required to repay any benefits received.

Who pays for the benefits I receive?

Benefits are paid from Georgia's Unemployment Trust Fund, which is funded by a tax paid by employers. If the original determination that allowed benefits is reversed, the employer must have furnished timely written separation information to the GDOL to receive credit on the employer's account.

IMPORTANT REMINDERS FOR YOUR HEARING

- Carefully read this booklet and any correspondence you receive from the department or the Appeals Tribunal.
- Be aware of deadlines for filing requests and documents or other evidence to be used at your hearing. Don't delay in preparing for your hearing. If you have documents or other evidence you want to use at the hearing, send them right away.
- Evaluate and prepare your side of the story. Are there documents you want to use at the hearing? Do you have witnesses you want to testify?
- Stay calm. Take notes of statements made which you want to ask questions about or respond to when you testify.
- Ask witnesses questions to bring out all of the details you think are important.
- Enter exhibits. Documents you wish to have considered must be identified at the hearing so the hearing officer may enter them into the record of the hearing.
- If you bring witnesses, bring people with firsthand knowledge of what you want them to testify about.
- FINAL STATEMENTS. Think about the evidence and testimony presented. Tell the hearing officer at the end of the hearing why the ruling should be in your favor. Be brief and to the point.

NOTES

