This pamphlet is provided to help you file an appeal. If you have any questions about the information in this pamphlet, call your Unemployment Claims TeleCenter for assistance.

Note to Employers: This pamphlet is intended primarily for workers who have applied for unemployment benefits. However, information regarding the procedures for filing an appeal will generally apply to you, also. You may appeal any decision regarding an individual's separation from employment if you are the individual's last employer or a base year employer. You may appeal other decisions you disagree with if you provided the department with relevant information regarding an individual's eligibility for a specific week. You may also appeal the denial of a request for relief of benefit charges to your account, or the denial of your request to approve or extend standby status for your workers.

Your Right to Appeal

If you disagree with any written decision made by the Employment Security Department (ESD) about your unemployment benefits, you have the right to appeal that decision. This includes:

- **A final decision about your benefit amount (your final "Statement of Wages and Hours");**
- **A decision to deny or reduce your benefits;**
- **A decision to disapprove your training application;**
- **The reason for an overpayment;**
- **The amount of the overpayment;**
- **The finding that you were at fault in causing the overpayment; or**
- **The denial of your request to waive repayment of overpaid benefits.**

RIGHTS

Filing an Appeal

FILING

An appeal is a written statement that you disagree with the department's decision, and a request for a hearing by an administrative law judge. You must file your appeal in writing. (Your employer may also appeal the department's decision.)

Mail or fax your written appeal to your Unemployment Claims TeleCenter. This address is on the department's written decision. Make sure your letter includes the following information:

- The decision that you want to appeal;
- The reason(s) you disagree with ESD's decision;
- Your name;
- Your social security number;
- Your current address;
- Your telephone number;
- Your signature; and
- If your appeal is late, the reasons it is late.

If you or one of your witnesses does not speak English, tell us:

- You need an interpreter; and
- The language you (or your witness) speak best.

Appeal Time

There is a deadline for filing an appeal. Carefully read the decision. It will tell you the date by which you must respond. **Be sure to respond within the 30-day time limit**. If you don't, you may lose your appeal rights. If you miss the deadline, tell us why your appeal is late.

If you are appealing a denial of benefits, continue to file your weekly claims as usual while you are waiting for the hearing. If you win your appeal, you will only be paid for weeks that you have claimed. If your employer appeals the decision to pay you benefits and wins the appeal, you may have to repay any benefits you have received.

(continued inside)

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UNEMPLOYMENT INSURANCE

APPEALS HEARINGS:

Information for Unemployed Workers

Know Your Rights

APPEALS HEARINGS

JOB SERVICE **Washington State Employment Security**
The Right Connection

Notice of Hearing

The Office of Administrative Hearings (OAH), a separate state agency, conducts the hearings. They will send you a notice telling you the date and time of your hearing. They will also send you a brochure describing what you will need to do to prepare for the hearing and the hearing procedure. You should read this brochure carefully to make sure you do everything you need to do before the hearing date. Information about the hearing process is also available on the internet at www.oah.wa.gov.

If you cannot attend the hearing, you must call OAH **before** the hearing to ask for a postponement. The phone number to call will be included with the hearing notice. If you asked for the hearing and don't appear, the judge will dismiss your appeal and the decision you are appealing will stay in effect. If you don't appear for a hearing requested by your employer, the judge will make a decision based only on the department's records and the testimony of your employer and you may lose. If you move or change your address after filing your appeal, notify OAH immediately.

Preparing for the Hearing

Access to File

You have the right to a copy of everything in your unemployment claim file. Before you file your appeal, you may call your Unemployment Claims TeleCenter to request a copy of everything in your file. After your appeal is filed, when OAH schedules your hearing, they will send you a copy of your file – you do not need to request it. Your file may contain your own statement, the statement of your employer, statements of witnesses, and decisions by ESD staff. It is important to look at each of these statements and read them carefully. You may agree or disagree with the statements. In either case, this will help you prepare for your hearing. .

You usually can't receive unemployment benefits if you quit your job without a good reason ("good cause"). You may be able to receive benefits if you were fired. Your employer may have told ESD that you quit, but you think you were fired. A careful review of all information in your file will give you a good idea of what your employer might say at the hearing and you will be better prepared for the hearing.

Representative

You have the right to have someone represent you at your hearing. If you need advice and can't afford an attorney, call your local legal services office or the Unemployment Law Project. Telephone numbers and addresses are on the back of this pamphlet.

Access to Employer Records

Your employer is required by law to keep records that show your hours of work and the reason you left your job. You have a right to inspect your personnel record and add information that shows you disagree with the employer.

Your employer's records may be helpful to prove your case. For example, your employer may claim you were fired for being absent from work too much. Ask the employer for these records. If the employer denies your request, the brochure you receive from OAH will explain how to get a subpoena for the records.

The Decision

You will be notified by mail of the results of the hearing. In most cases, you will receive the decision within two weeks. The decision is called an "Initial Order." It will give the facts of the case as decided by the judge and explain the result.

Further Appeal Rights

If you disagree with the decision made by the judge you can appeal again. If the decision is made in your favor, your employer also has the right to appeal. If this happens, you may need to respond.

This next level of appeal is called a "Petition for Review". You have 30 days from the date on the "Initial Order" to file your petition with the Commissioner of the Employment Security Department. Only the OAH decision, the hearing tape and supporting documents are reviewed by the Commissioner's Review Office.

You may request a copy of the tape of your hearing before you file your Petition for Review. To request one, call the Employment Security Department Records Center at (360) 753-5134. (Your request for a copy of the hearing tape will not extend the 30-day filing deadline.)

By reviewing the tape of your first hearing you will be able to make clear, specific and accurate statements when you write your "Petition". In your Petition you must write any reason that you think the judge was wrong. Remember this next level of "appeal" will be based only on the evidence presented at the first hearing. No new evidence will be considered. **Be sure to file your Petition by the date given in the decision and continue to file your weekly claims.**

Your Petition must be filed by letter. It should include:

- The docket number from the Initial Order of the Office of Administrative Hearings;
- The reason(s) you disagree with the judge's decision;
- Your name and social security number;
- Your current address;
- Your signature; and
- If your petition is late, the reasons it is late.

Your Petition, including attachments, cannot be more than five (5) pages. Additional pages will be returned to you and will not be considered by the judge. Mail your Petition to:

Agency Records Center,
PO Box 9046,
Olympia Washington 98507-9046.

A judge (not the same judge who conducted your hearing) will make a decision based on the hearing record and the written information provided by you or your employer in the Petition. You will not be asked to testify. This is why it is important that your written Petition (or your response to your employer's petition) include all the information you want the judge to consider. You should receive the judge's decision in the mail about 45 days after the Petition is filed.

Finding Help

Unemployment Law Project (ULP)

2800 First Avenue, Room 216
Seattle WA 98121
206-441-9178
ULP Website: www.unemploymentlawproject.org

Northwest Justice Project

CLEAR*(Coordinated Legal Education Advice & Referral)*
1-888-201-1014
NJP Website: www.nwjustice.org

For additional assistance in finding legal assistance, visit the Access to Justice website at www.wsba.org/atj.