

THE HEARING AND APPEAL PROCESSES
A comprehensive overview

TABLE OF CONTENTS

INTRODUCTION.....	2
IS AN APPEAL NECESSARY?	2
WHAT IF I WON?	3
APPEALING A DEPUTY’S DECISION	4
THE HEARING NOTICE	5
SHOULD I PARTICIPATE IN THE HEARING?.....	6
BEFORE THE HEARING.....	8
DURING THE HEARING	12
OTHER TIPS	14
APPEALING A HEARING OFFICER’S DECISION	15
REQUESTING A NEW HEARING.....	16
GOOD CAUSE	17

INTRODUCTION

There are three levels of decisions that potentially can be made concerning unemployment insurance (UI) claims. This booklet contains information to assist you if you are involved in a claim that is appealed beyond the first level.

The first-level decision is issued by a deputy, who considers written information provided by the claimant and employer. The deputy also may interview the claimant and employer by telephone to obtain additional information. The deputy will make a written decision that is mailed to the claimant and the employer.

A party who is dissatisfied with the deputy's decision may appeal the decision and obtain a hearing. The claimant, the employer, and sometimes the Division of Employment & Training (Division) can participate in the hearing. Based on the evidence presented at the hearing, the hearing officer issues a written decision. This second-level decision is also mailed to the claimant and the employer. If one or both parties have a representative, a copy of the decision is also mailed to the representative.

If the hearing officer's decision is appealed, the third-level decision is issued by the Industrial Claim Appeals Panel (ICAP). ICAP does not hold hearings or have personal interaction with the parties; only the written record, the appeal, and the briefs or written arguments filed by the parties are considered. Based on its review, ICAP issues a written decision that is mailed to the parties and their representatives, if any.

IS AN APPEAL NECESSARY?

Public employees are not permitted to give legal advice, such as recommending whether or not to appeal a specific decision. Parties must make this decision independently or with private counsel. The Customer Contact Center (CCC) can, however, explain what you stand to gain or lose if a decision is appealed or is not appealed. To contact the CCC, please call 303-318-9000 or 1-800-388-5515 if you are a claimant. If you are an employer, call 303-318-9100 or 1-800-480-8299.

As you decide whether you wish to appeal, there are two commonly misunderstood situations we want you to be aware of: decisions stating the employer has lost the right to protest and decisions granting or denying benefits after the claimant already has returned to work.

Loss of Right to Protest decisions

In some cases, the deputy's decision will disqualify a claimant from receiving unemployment benefits, but also state that the employer has lost the right to protest the claim because the employer failed to submit job separation information or submit the information on time. An employer should not conclude that it does not need to appeal this decision. If the claimant appeals the disqualification, the employer will not be allowed to participate in the appeal hearing or appeal any award that might result unless the employer's protest right has been reinstated. Employers receiving a deputy's decision of this type may appeal the portion of the decision that revokes the right to protest without jeopardizing the disqualification. The disqualification will be reconsidered only if the claimant appeals it. If that occurs, the employer's appeal will be resolved first to ensure the employer can participate in the claimant's appeal hearing if the employer's protest right is reinstated.

Return To Work

Do not assume that it is unnecessary to appeal a decision or respond to an appeal because the claimant has returned to work at the time a decision is issued. If the claimant separates from his or her new employment and then files another claim within a certain time period, the decision could control the claimant's ability to receive benefits at a later time. Further, if a decision awards the claimant benefits, but the decision is later appealed and reversed, the claimant usually will be required to repay the benefits previously received.

WHAT IF I WON?

If the deputy's (first level) decision is in your favor, keep in mind that the opposing party may appeal. Therefore, track the progression of the claim and stay alert. When you receive the decision, calculate the final date for filing an appeal. 20 calendar days (including weekends and holidays) are permitted for appealing a decision at all three levels. The first day of the 20-day period is the day after the decision is mailed, and appeals must be **received** by our offices by the 20th calendar day.

Remain attentive even after the 20 days expire. Although an appeal must be received by the 20th calendar day, it takes time to process the appeal and notify the opposing parties after the appeal is received. Depending on the workload, the processing and notification can take a few days to a few weeks after the 20-day period expires. If you plan to be away from your address of record for

even a few days during this time period, make arrangements to be informed of mail received from the Division or call the Appeals Section at 303-318-9299 or 1-800-405-2338 to learn if an appeal has been filed.

The notice period for an appeal hearing can be as little as ten calendar days from the date the hearing notice is mailed. Depending on your location, the hearing date could be a week or less from the date you receive the hearing notice. Therefore, it is important to monitor your mail regularly and frequently.

APPEALING A DEPUTY'S DECISION

In Writing

All appeals must be submitted in writing. In most cases, an appeal form is on the back of the deputy's decision. However, the appeal also can be written on a separate sheet of paper. If you use a separate sheet, include a copy of the decision being appealed. If a copy is not available, provide the claimant's name and social security number, the employer's name and/or account number, and state which decision is being appealed; for example, the job-separation decision from [name the employer]. The appeal must be signed and dated.

State the Reasons

The appeal should contain a specific reason why you disagree with the deputy's decision. For example, if the deputy found the claimant was discharged for excessive tardiness, and the claimant believes the discharge was for a different reason, the claimant should state the reason he or she believes to be correct and explain why he or she is not at fault. Or, if the claimant recalls only being tardy once, he or she should state that.

If the deputy found the claimant quit due to certain working conditions judged to be unsatisfactory, and the employer believes those conditions did not exist, the employer should state so and explain the actual working conditions. Or, if the employer believes the claimant quit for a different reason, the employer should state the reason believed to be correct, and explain why the claimant is at fault.

File On Time

The appeal must be **received** within 20 calendar days of the date the deputy's decision was **mailed** (not the date you received the decision). The mailing date

appears in the upper right corner of the decision. Calendar days include weekends and holidays. However, if the 20th calendar day falls on a Saturday, Sunday, or a legal holiday, the deadline automatically is extended to the next business day. The appeal can be:

- Mailed to the UI Appeals Section at P.O. Box 8988, Denver, CO 80201-8988;
- Faxed to 303-318-9248; or
- Hand-delivered to the UI Appeals Section at 251 East 12th Avenue in Denver.

If none of these options are available, an appeal can be filed at a Colorado workforce center. Appeals filed in this manner may be delayed, but the workforce center receipt date will be honored.

NOTE: When an appeal is filed by either party, claimants should continue to make CUBLine claims for any full or partial weeks of unemployment that occur while the appeal is pending. If an appeal is resolved in the claimant's favor, the claimant will receive benefits only for the weeks for which timely CUBLine claims were filed.

THE HEARING NOTICE

Once a timely appeal is filed, a hearing notice will be mailed to the parties at the addresses on file with the Division. Important information about the hearing process appears on the front and back of the hearing notice. **Read** the entire hearing notice carefully and thoroughly. Then, record the date and time of the hearing. The hearing notice will give the date of the hearing and the day of the week, so verify you have recorded them correctly. The time given is the time for the Mountain Time zone. Participants living in a different time zone need to convert the time for their time zone.

If you receive two or more hearing notices, read all of them thoroughly and carefully. They may look like duplicates, but the notices probably have different hearing times and apply to different issues or different employers. If the claimant has appeals involving more than one employer, separate hearings at different times will be held. The name of the employer involved for each hearing and the issue for each hearing are listed on the hearing notice.

Normally, each party has the option to participate at the hearing in person or by telephone. However, sometimes it is not feasible to provide an in-person hearing or the Chief Hearing Officer may determine that one type of hearing or another is best for a particular case. The hearing notice will inform the parties of the type of hearing that will be conducted. If an in-person hearing is available, the hearing notice will provide the address of the hearing location. If the hearing will be conducted by telephone or if there is an option to participate by telephone, the hearing notice will also provide a local and a toll-free telephone number to call at the scheduled time for the hearing.

SHOULD I PARTICIPATE IN THE HEARING?

One Chance to Present Evidence

In the vast majority of cases, the appeal hearing is the one and only opportunity to present evidence. The evidence presented at this hearing establishes the record for reviewing the hearing officer's decision and any further appeal decisions. Therefore, it is important to present all the evidence you want to be considered.

Appealing Party

The appealing party is required to participate in the hearing. If the appealing party does not participate, the appeal will be dismissed. The deputy's decision will remain in effect unless the appealing party demonstrates good cause for excusing his or her failure to appear and is granted a new hearing. See **Good Cause** on page 17.

Non-Appealing Party

As long as the appealing party appears, the hearing will proceed whether the non-appealing party participates or not. However, it is strongly recommended that the non-appealing party participate, even if he or she thinks the decision obviously should stay in its favor. Although the appealing party will not receive an automatic judgment based on the non-appealing party's absence, the hearing officer will only consider the evidence that is discussed during the hearing. Chances are that evidence in the non-appealing party's favor will not be discussed if the non-appealing party does not appear. Documents and information previously provided to the deputy are not automatically considered.

If the non-appealing party fails to appear for the hearing and the hearing officer's decision is not in his or her favor, the non-appealing party may request a new hearing. The non-appealing party must demonstrate good cause for excusing his or her failure to appear. See **Good Cause** on page 17.

NOTE: The **only** two options to participate in a hearing are in person or by telephone at the scheduled time. Parties cannot participate in a hearing by relying only on documents or other physical materials. Also, parties cannot choose to appear on a different date or at a different time to present their evidence. However, this does not mean you should skip the hearing if you are simply a few minutes late. The hearing officer will permit you to participate as long as the hearing is still in session.

Loss of Right to Protest Hearings

As mentioned on page 3, an employer may appeal a decision that revokes its right to protest the claim due to the employer's failure to submit job separation information or submit it in a timely manner. The right to protest may be reinstated if the employer shows good cause for excusing the failure to submit the information or submit it on time. Claimants often ask if they need to participate in these hearings since the issue seems to involve only the employer. We cannot provide specific advice for your case; however, we suggest that claimants review the employer's appeal statement to decide whether or not they wish to participate. The appeal statement should contain the employer's explanation for failing to submit job-separation information or failing to submit it in a timely manner. Based on the explanation, a claimant can decide how much he or she can contribute to the hearing. For example, if the employer's explanation involves its mail-handling procedures and the claimant is familiar with those procedures, he or she may wish to participate in the hearing. Before choosing not to participate, a claimant should consider the following:

- If the employer's right to protest is reinstated, the previous award of benefits will be vacated until the deputy makes a new decision based on the separation information provided by both the claimant and the employer. Benefits usually stop until the new decision is made.
- If the claimant fails to appear for the loss of right to protest hearing and later decides to request a new hearing to reconsider a reinstatement, the claimant would have to demonstrate good cause for excusing the failure to appear at the hearing that was held. See **Good Cause** on page 17

BEFORE THE HEARING

Once a deputy's decision has been appealed, take time to prepare your case. The following steps should be taken to prepare.

Review the Claim File Documents

If the hearing will address the circumstances of the claimant's separation from employment, the hearing notice should be accompanied by copies of the documents from the claim file. If no copies are enclosed, call the Appeals Section as soon as possible at 303-318-9299 or 1-800-405-2338.

Start by reading all of the documents sent to you, whether from the Appeals Section or from the opposing party (the opposing party is required to provide you with copies of any documents or other exhibits to be introduced at the hearing). The information in these documents should give you a good idea of what the opposing party will claim at the hearing. This will help determine what evidence you need to gather, such as witnesses and documents, in order to defend the opposing party's claims.

The claim file documents also show whether notice of all the issues to be discussed at the hearing has been given. If you want to raise an issue not mentioned in these documents, follow the procedure for raising a new issue. See **New Issues** on page 9.

The hearing packet should include a work sheet that states the laws the hearing officer may apply based on the issues raised by the parties. You can review most of the laws beginning on page 42 of a booklet which can be found [here](#). Click on the arrow next to "Worker Publications" or "Employer Publications," then choose "Colorado Employment Security Act."

Exhibits

Before the date of the hearing, parties must provide the hearing officer **and** the opposing party with copies of any documents or other exhibits to be introduced at the hearing. Use the address shown of the hearing notice for the opposing party. If the hearing notice shows that the opposing party has a representative, the copies should be sent to the representative at the address shown. Be sure to allow enough time for the documents to be received before the hearing date if you are sending documents by mail.

However, simply providing copies does not mean the exhibits are automatically part of the record. During the hearing, ask the hearing officer to admit the exhibits into the record. The hearing officer will then determine if the exhibits are admissible. See **During the Hearing** on page 12.

New Issues

If you want to raise a new issue at the hearing that is not mentioned in any of the documents received, you must state the issue in writing and provide a copy to the hearing officer and the opposing party before the date of the hearing. This gives the opposing party fair notice and time to prepare a response to the new issue. If advance notice of a new issue is not given, the hearing officer may exclude the issue at the hearing.

For claimants, an example of a new issue would be a claim that he or she quit due to harassment when the claimant previously has reported only that he or she quit to accept another job. If, at the hearing, the claimant says for the first time that harassment was the reason he or she accepted another job that is a new issue.

For employers, an example of a new issue would be a claim that the claimant was excessively absent when previously it was reported that the claimant was discharged for failing to meet work production standards. It may be that the claimant's attendance problems caused the failure to meet job performance standards, but the employer must raise the attendance issue if he or she wishes to assert that it directly or indirectly caused the claimant's discharge.

Witnesses

Arrange to have firsthand witnesses testify at the hearing. Firsthand witnesses are the individuals who personally saw, heard, experienced, or otherwise have personal knowledge of the separation details or other matter you are trying to prove. Witnesses who do not have personal knowledge of the circumstances usually provide hearsay evidence, which the hearing officer can reject as unreliable.

The employer's human resources representative may or may not be a firsthand witness to the events that caused a claimant's separation from employment. If not, the employer still may choose to have the human resources representative present the employer's case and testify about relevant policies, procedures, warnings, or other related matters.

Witnesses usually can participate in the hearing in person or by telephone unless the hearing notice does not provide a choice. If a witness will testify by telephone, have the witness's telephone number ready for the hearing officer, and arrange for the witness to remain by the telephone for at least one hour from the hearing start time.

Subpoenas

If a critical witness refuses to testify, you can request a subpoena from the Appeals Section to compel the witness to testify. A subpoena also can be requested for documents. A request for a subpoena must be made in writing and include certain information. **To subpoena a witness**, include the first and last name of the person being subpoenaed, why the person's testimony is needed, and the physical home or work address where the subpoena will be served. Subpoenas cannot be served to a P.O. Box. **To subpoena a document**, name the document to be subpoenaed, why the document is needed, and the physical address where the subpoena will be served. Again, the subpoena cannot be served to a P.O. Box.

There is no guarantee that a subpoena will be granted. However, when granted, a subpoena must be served at least 48 hours before the hearing. Therefore, you should request a subpoena early enough to allow time for the subpoena to be prepared, picked up, and served 48 hours before the hearing. It is the requestor's responsibility to pick up and serve the subpoena.

Written Witness Statements

If arrangements cannot be made for a witness to testify in person or by telephone at the scheduled time of the hearing, you may present a written statement from the witness. The written statement should contain the information that the witness would have provided at the hearing. The witness must sign the written statement and it is best if the statement is sworn to before a notary public. However, the written statement still will be considered hearsay because the witness is not testifying during the hearing and is not present to answer questions about the statement. Therefore, the hearing officer will decide if the written statement is sufficiently reliable to be considered.

Provide the written statement to the hearing officer and the opposing party before the hearing date. Also, be prepared to explain during the hearing why you could not arrange to have the witness testify in person or by telephone.

Organize your Testimony and Questions

Make a list of points to cover in your testimony. Do not write the entire testimony because the hearing officer will not permit you to read a prepared statement. However, you can list items to mention during your testimony and refer to the list during the hearing. If you plan to present witnesses during the hearing, write down the questions you want to ask your witnesses. Also, try to anticipate which witnesses the opposing party may present, and prepare a list of potential questions to ask those witnesses.

Land Line Not Available

We strongly recommend that parties not use a cell phone or a pay phone to participate in the hearing because of the reception, charging, and connection problems that can result. If you do not have access to a land line, some workforce centers may have telephones available for your use. Contact a workforce center in advance to find out if a telephone can be reserved for the hearing. If you do not know the location of the nearest workforce center, [click here](#). If a workforce center telephone is not available and you must use a cell phone, make sure your phone is charged. In addition, test your connection in advance from the place where you will be located at the time of hearing to make sure there is service in that area.

Special Needs

For those who need special accommodations in order to participate in a hearing, notify the Appeals Section immediately upon receiving the hearing notice by calling 303-318-9299 or 1-800-405-2338.

Unavailable To Participate

If you are unable to participate in the appeal hearing due to a schedule conflict, illness, or for any other reason, do not simply skip the hearing. Do not wait to see what the outcome of the hearing will be – it is unlikely you will win. Call the Appeals Section at 303-318-9299 or 1-800-405-2338 as soon as possible and request a postponement. You will be asked to explain in detail why you cannot attend the scheduled hearing and why any conflicting appointment cannot be rescheduled. The Appeals Section representative will make a determination based on the information you provide and the amount of time between your request and the hearing date. If you make your request too close to the hearing date, the Appeals Section representative may advise you to call the hearing officer at the scheduled time of the hearing and make your request

at that time. If a postponement is granted, you will be asked to provide days and times you are or are not available for a rescheduled hearing.

However, there is no guarantee that a postponement will be granted. If you miss a hearing after a postponement request is denied, you may request a new hearing after the hearing officer's decision is mailed. A determination will be made based on your explanation for missing the hearing. See **Good Cause** on page 17.

DURING THE HEARING

Be On Time

Hearings generally are scheduled for one hour, but a hearing can end very quickly if only one party participates. Those who intend to participate by telephone must call the hearing officer at the exact time scheduled. Do not call early because you may interrupt another hearing in progress. To reach the hearing officer, call one of the two special numbers provided in the hearing notice for the hearing. If these lines are busy or you have any other difficulty getting through at the hearing time, immediately call the Appeals Section at 303-318-9299 or 1-800-405-2338 for assistance.

It is your responsibility to call the hearing officer in order to participate in the hearing. If you do not call, the hearing officer will not call you to invite you to participate or to find out why you did not call. However, in some instances, the hearing officer may need to return your call if he or she is not ready to start the hearing at the scheduled time. If the hearing officer states that he or she needs to call you back, stay by your telephone and keep the line open. If the hearing officer has not called you back in the time he or she states, call the hearing officer back. If you cannot reach the hearing officer, call the Appeals Section at 303-318-9299 or 1-800-405-2338.

Be Patient

The hearing is not as formal as a court trial, but it is more formal than an ordinary meeting or conference. The hearing will be conducted with a series of questions and answers made under oath, one witness at a time. The hearing officer will decide the best order in which to take the testimony, but each party will be given an opportunity to add other testimony and ask questions of the witnesses before the end of the hearing. It is not acceptable to interrupt the testimony of a witness unless you are making a valid objection. Disagreeing

with a witness's testimony, even if you feel the witness is lying, is not a valid reason for interrupting to object. Remember – you will have the opportunity to state your disagreement.

Be Calm

Resist the temptation to blurt out responses to the testimony of the opposing party or witnesses. Instead, make a written note and address the matter when it is your turn to question the witness or it is your time to testify. Similarly, resist the temptation to become angry if you disagree with the hearing officer's rulings. If the ruling excludes testimony, ask to make an **offer of proof**, which is a summary of the testimony that would have been provided. If a second-level appeal is filed, ICAP can use the offer of proof to determine whether the exclusion is a reversible error. Under no circumstances should you protest by walking out of the hearing, hanging up the telephone before the hearing is over, or refusing to cooperate.

Speak Up

If you are unsure how to proceed or feel uncomfortable with something that occurs during the hearing, bring the matter to the hearing officer's attention when it is your turn to speak. Try to raise the issue at the time it is occurring or soon afterwards, before the end of the hearing.

Exhibits

Remember to ask the hearing officer to admit into the record any exhibits you have submitted before the hearing, including any written witness statements. The hearing officer will explain when and how to make this request. If the hearing officer denies a request to admit exhibits, ask that the exhibits be kept in the record so they can be reviewed if an appeal to ICAP is filed.

Check It Twice

Near the end of the hearing, the hearing officer will ask if there is anything else you wish to present. Use this opportunity to double check your list of points to make during your testimony and the list of questions for witnesses. Add to your testimony and ask additional questions if necessary.

OTHER TIPS

Address Changes

Immediately notify the Division of any change in your address. You are required to notify the Division **directly** and **promptly** of a change in address. **Do not** rely on an address change filed with the post office. If you miss a hearing or a filing deadline due to a delay in the postal forwarding process or due to returned mail caused by an address change, you will not be able to rely on those circumstances to establish good cause if you have not **directly** and **promptly** informed the Division of your address change. Claimants can report an address change in the following manners:

- On CUBLine on-line or at 303-813-2800 or 1-888-550-2800.
- By E-mail to UI.AddressChange@state.co.us.
- By Fax to 303-318-9011, Subject: ADDRESS CHANGE.
- By Mail to UI Operations, P.O. Box 400, Denver, CO 80201-0400
- On-line at MyUI Claimant if you are registered.

Provide the following information: name, last four digits of the social security number, previous address, current address, current telephone number, and the employer(s) involved in the claim.

Employers can report an address change:

- Online at <https://secure.cdle.state.co.us/BusInfoChg>
- By E-mail to unemp.tax@state.co.us.
- By calling the Customer Contact Center at 303-318-9100 or 1-800-480-8299 to request the appropriate form.

Sending Urgent Documents

When sending time-sensitive mail, such as an appeal or a new hearing request, be sure to allow enough time for them to be **received** by the due date. If you use certified mail to verify a submission, please be aware that this causes a short delay because of the requirement for a signature. If you fax documents, get a confirmation or transmission report and keep it in your records.

APPEALING A HEARING OFFICER'S DECISION

Following the previous tips should minimize the need to appeal the hearing officer's decision to the Industrial Claim Appeals Panel (ICAP). However, if an appeal to ICAP is filed, the following information applies.

In Writing

The appeal must be written. Any written statement that expresses disagreement with the hearing officer's decision or expresses the intent to appeal is sufficient. Include a copy of the hearing officer's decision you are appealing.

File On Time

An appeal to ICAP must be **received** within 20 calendar days from the date the hearing officer's decision was **mailed** (not the date you received the decision). The mailing date of the hearing officer's decision appears below the heading of the decision, on the left side, and again at the end of the decision.

Limited Review

ICAP does not hold a new hearing, but rather reviews the evidence that was previously presented and evaluates the hearing officer's decision based on that evidence. If there is conflicting evidence, the hearing officer has the ultimate authority to resolve the conflicts and make credibility determinations. ICAP is not free to substitute its own resolution of the evidence. Although ICAP can set aside findings that are contrary to the weight of the evidence, it is rare for that standard to be met.

No New Evidence

The law prevents ICAP from relying on new evidence to change a hearing officer's decision. Any information about the issues in dispute that was not presented at the hearing is new evidence. Therefore, it is extremely important for you to prepare for the hearing by gathering as much evidence as possible, and present it at the hearing.

Filing a Brief

In making its decision, ICAP also considers any **briefs** filed by the parties. The **brief** is a written argument in which each party can explain in detail why the party thinks the hearing officer's decision should be changed or stay the same.

However, parties are not required to file a brief. Information about briefs and writing a brief can be found [here](#).

REQUESTING A NEW HEARING

If you failed to appear at the hearing that was held, this cannot be cured by including additional evidence in an appeal. As previously stated, ICAP cannot consider additional evidence. If you feel additional evidence needs to be considered and you failed to appear at the hearing that was held, you may request a new hearing within 20 calendar days from the date the hearing officer's decision was mailed.

If you want to appeal the hearing officer's decision in the event your new hearing request is denied, both the appeal and the hearing officer's decision must be received within the 20-day period. Do not wait to see if the new hearing will be granted. An appeal and new hearing request may be written in the same document.

You cannot simply request a new hearing if you or an authorized representative participated in the hearing that was held. You must proceed with an appeal and demonstrate an error or other irregularity that justifies a new hearing. You can explain the error or irregularity in your appeal statement or brief.

The Decision

At least two ICAP judges will review the record and determine whether the hearing officer's decision is correct, incorrect, or whether an additional hearing or findings are necessary. If an additional hearing is ordered, the case is sent back to a hearing officer to conduct the hearing.

ICAP will issue a written decision and mail a copy to all of the parties as promptly as possible. It is difficult to state how long it will take to issue the decision because this depends on the number of appeals pending and the complexity of the issues in each appeal. However, most decisions are issued within 75 days of the date ICAP receives the appeal.

If you disagree with a Final Order issued by ICAP, you may appeal the order to the Colorado Court of Appeals. The appeal must be received by the Court within 20 calendar days from the date ICAP's Final Order was mailed. The mailing date is found on the last page that is included with the Final Order.

Not all ICAP orders are final. If ICAP sends the case back to the hearing officer for further action, the ICAP Order cannot be appealed to the Court of Appeals until the action is completed and ICAP issues a Final Order.

Final Orders specifically state the order is “Final” and include appeal instructions in a **NOTICE** that is included at the end of the Final Order. A form for appealing to the Court can be found on the Court of Appeals [website](#).

When a party misses a hearing and requests a new hearing, the party must demonstrate **good cause** to excuse his or her absence from the hearing. If the party’s request for a new hearing is late, or if he or she files a late appeal, the party must demonstrate **good cause** to excuse the delay.

What Is Good Cause?

Generally, good cause is determined by considering various factors in Part 12.1.8 of the Regulations Concerning Employment Security. Several of the factors focus on whether the requesting party is responsible for the failure to act or act in a timely manner, and whether the party acted in a reasonably responsible manner. To view the specific factors, go to the [CDLE Forms and Publications](#) webpage. Click on the arrow next to “Employer Publications” or “Worker Publications,” then choose “Regulations Concerning Employment Security.”

Other relevant factors not listed in Rule 12.1.8 also may be considered on a case by case basis.

How to Establish Good Cause

Good cause is determined from the party’s written explanation for failing to act or for failing to act in a timely manner. Therefore, a written explanation for a party’s failure to act or to act timely must be included with any late appeal, new hearing request, and any late request for a new hearing. The explanation should consist of complete, detailed, and specific information.

If the explanation for the late appeal or late request for a new hearing is not sufficient to demonstrate good cause, a notice requesting a supplemental explanation will be sent to the party. Sometimes specific questions are asked. If not, examine your original explanation and determine what details you can add. For example, if you have stated that your appeal was late because you received the hearing officer’s decision late, add the date you received the decision and, if you know, explain why it was received late. For example, did

the decision arrive late in the mail, or had you been out of town when it was delivered? If you delayed in appealing after you became aware of the decision, explain why.

Sometimes what is lacking is not why the hearing was missed or why the filing was late, but how the situation was handled. For example, if you missed the hearing due to a schedule conflict, it is important to mention when you became aware of the conflict and what efforts you made to reschedule the hearing or the other appointment. If you missed a hearing because you were out of town when the hearing notice was held, state when you left town, when you returned, and when you became aware of the hearing.

There is no good cause procedure at the Colorado Court of Appeals. An appeal to the Court must be **received** at the Court within 20 calendar days from the date ICAP's decision was **mailed**.

* * * * *

For questions about an appeal of the deputy's decision, contact the Appeals Section at 303-318-9299 or 1-800-405-2338.

For questions about an appeal of a hearing officer's decision, contact the Industrial Claim Appeals Office (ICAO) at 303-318-8133. If you need a toll-free number, call 1-888-390-7936 and ask to be transferred to extension 88133.