

**486—3.1(10A) Appeals.**

**3.1(1)** *Lower authority's decisions to employment appeal board.* A copy of each administrative law judge's decision, pertinent to unemployment insurance matters, shall be submitted to the employment appeal board on the date the decision is issued.

**3.1(2)** *Form and time of appeal.* A party aggrieved by a decision of an administrative law judge may appeal to the employment appeal board within 15 days from the date of the decision. The appeal shall state the grounds for the appeal. The appeal shall be addressed to Employment Appeal Board, Lucas State Office Building, Fourth Floor, 321 East 12th Street, Des Moines, Iowa 50319. The appeal may also be filed in any office maintained by the workforce development department which processes claims for unemployment insurance. Appeals may also be filed by facsimile transmission (fax). If the appeal is filed by fax, the original copy shall be mailed to the employment appeal board. The date of the appeal is the date of the fax transmission.

**3.1(3)** *Procedure when an appeal is filed.* Upon receipt of notice of appeal, the entire record before the administrative law judge shall be forwarded to the employment appeal board. One copy of the testimony and evidence received by the administrative law judge shall be mailed to the parties or their designated representative. That mailing shall be identified by a transmittal of testimony and shall provide instructions for the filing of written briefs.

**3.1(4)** *Additional parties.* Whenever it appears that other parties should be joined in order to dispose of all issues, the employment appeal board shall so order and notify the parties of further procedures to be followed.

**3.1(5)** *Consolidation of proceedings.* Any number of cases before the employment appeal board may be consolidated for hearing, argument, consideration and decision when the facts and circumstances are the same or similar and no substantial right of any party will be prejudiced.

**3.1(6)** *Issues on appeal.* The employment appeal board may consider any issue raised by the action pertaining to the eligibility of an individual for unemployment insurance benefits. If new issues appear, different from those which are noticed in the appeal, the board may remand such issues to an administrative law judge for appropriate action, or in the interest of prompt administration of justice and without prejudicing the substantive rights of any party, may hear and decide any issue material to the appeal, even if not specifically indicated as a ground for appeal or not noticed for the administrative hearing.

**3.1(7)** *New or additional evidence.*

*a.* An application to present new or additional evidence shall be in writing and shall be filed within ten days after the date of mailing notice to the parties that an appeal has been filed.

*b.* The application to present new or additional evidence shall state the nature of the evidence, the materiality of such evidence, and the reasons why such evidence was not introduced at the hearing before the administrative law judge. No such evidence shall be considered by the board unless the board has ordered it admitted.

*c.* Whenever the board, on its own motion, or upon the application of a party, orders the taking of new or additional evidence, the board may schedule a hearing or remand the matter to an administrative law judge. The issues at such hearing shall be limited to those issues designated by the appeal board. The parties shall be notified ten days before the date of the hearing, specifying the place and time of the hearing.

*d.* Whenever the board holds the hearing, the parties may introduce such evidence as may be pertinent to the issues on which the board has directed the taking of evidence. All parties shall have the right to examine and cross-examine other parties and witnesses.

*e.* If only documentary evidence is to be admitted, a copy of the evidence shall be mailed by the board to each of the parties, and the parties shall be granted ten days to submit written arguments on that evidence. The party which has not submitted the new evidence may submit rebuttal evidence to the new evidence.

**3.1(8)** *Postponement of hearing of appeals.* Applications for postponement of hearing of appeals, scheduled before the appeal board, shall be submitted in writing at least three days before the date of the

scheduled hearing, and shall be granted at the discretion of the appeal board. Each party shall be granted only one postponement, except as determined by the chairperson of the appeal board.

**3.1(9) *Adjournment and continuance.*** Adjournment and continuance may be granted for good cause by the appeal board. Notice of the adjournment or continuance shall be given to all parties, at their last-known address according to the division's record.

**3.1(10) *Hearing of appeals.*** An appeal to the board may be considered and decided based upon the evidence in the record made before the administrative law judge or the appeal board. The board may schedule a hearing to permit the parties to offer oral or written argument, or both. The parties shall be notified by the appeal board of such hearing by notice at least ten days before the date of the hearing.

**3.1(11) *Remand of appeals.*** The appeal board may remand any claim or claims for any issue involved in the claim or pertaining to the claim to an administrative law judge for the taking of additional evidence as the appeal board may deem necessary.

**3.1(12) *Taking of evidence.*** If the appeal board decides that evidence shall be taken, such evidence may be taken before the appeal board. The hearing may be conducted by the appeal board, or the board may designate an attorney employed by the appeal board to conduct such hearing. The parties shall be notified of the time and date of the hearing and shall be provided with instructions about how to participate in the hearing. The proceedings shall be recorded and made a part of the record.

**3.1(13) *Written briefs and oral arguments.*** The parties shall be granted the opportunity to submit written briefs on all issues to be decided. The briefs and arguments shall be submitted within seven days from the date of mailing of the transcript of testimony, in cases where an evidentiary hearing was held. In those cases where no hearing was held, the parties shall have ten days to submit written briefs and the opportunity to show good cause for not appearing. A request for extension of time to submit briefs must be made within the time set for submission of the briefs. Each party shall be granted one seven-day extension without justification. Requests for second extensions must be for good cause and will be granted at the discretion of the chairperson of the appeal board.

The appeal board may afford the parties an opportunity to present oral arguments and may limit the time of oral arguments. Requests to present oral arguments shall be submitted within ten days from the date of mailing of the acknowledgment of appeal and shall state the reasons for the oral argument.

**3.1(14) *Nonappearance at appeal hearing.*** If the appellant fails to appear at a scheduled hearing and does not submit good cause for failing to appear within ten days from the date of the hearing, the appeal board shall issue a decision based upon the evidence contained in the record.

**3.1(15) *Withdrawal of appeal.*** Any appeal may be withdrawn by the appellant, by written request, anytime before a decision is issued by the appeal board. If a request is made, the appeal shall be dismissed. An appeal so dismissed may be reinstated by the appeal board if the appellant files a written request to reinstate and shows that the request for withdrawal resulted from misinformation given by the workforce development department, unemployment insurance division, or for other good cause shown, as determined by the appeal board. A request for reinstatement shall be made within 60 days after the mailing of the decision dismissing the appeal or, in the event of fraud, within 60 days after discovery of the fraud.

**3.1(16) *Late appeals.*** The appeal board shall dismiss appeals which are not filed within 15 days from the date of the administrative law judge's decision, unless good cause for the delay has been shown.