
**Rules of
Department of Labor and Industrial
Relations**

**Division 20—Labor and Industrial
Relations Commission
Chapter 4—Rules Relating to Employment
Security Appeals**

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**Title 8—DEPARTMENT OF
LABOR AND
INDUSTRIAL RELATIONS
Division 20—Labor and Industrial
Relations Commission
Chapter 4—Rules Relating to
Employment Security Appeals**

8 CSR 20-4.010 Review—Applications

PURPOSE: This rule sets out procedures for filing an application to review decision of the appeals tribunal of Division of Employment Security and the commission's policy on oral argument, briefs and taking of additional evidence.

(1) Filing.

(A) Any interested party to a decision of an appeals tribunal of the division may file an application to have the decision reviewed by the commission by filing the application with the commission or by filing it with the division, as agent of the commission, within thirty (30) days following the date of notification or mailing of the decision, as provided in section 288.200, RSMo. An application for review shall be signed by the claimant, sole proprietor, partner or an officer or employee of a corporation. A licensed Missouri attorney may sign an application on behalf of any interested party.

(B) In the absence of an endorsement by the United States Post Office, the application for review shall be deemed to have been filed on the date received by the division or commission.

(C) An application for review filed by facsimile transmission (fax) may be filed at any office of the Division of Employment Security. An application for review filed by fax that is received by the division on a regular workday shall be considered as filed on that day. A fax received on a Saturday, Sunday or legal holiday will be considered filed on the next regular division workday. Date and time of receipt shall be determined by the receiving fax machine. Persons filing by fax shall retain the receipt with the original document for reference by the commission if so requested.

(2) Upon receipt of the application, the commission shall mail a copy of the application or notice of the issues raised by it to the last known address of each interested party to the decision.

(3) An interested party means—

(A) The claimant, if any;

(B) Any employer or employing unit that has filed a timely protest in accordance with section 288.070, RSMo;

(C) Any employer or employing unit having a legal interest in any determination made under section 288.130, RSMo;

(D) Any person, employer or employing unit having a legal interest in any assessment made under section 288.160, RSMo; or

(E) The Division of Employment Security.

(4) Oral argument by counsel for the parties at issue may be granted by the commission; provided the request to present oral argument is made within ten (10) days of the filing of the application for review. A claimant may present oral argument on his/her own behalf. A brief shall be filed before oral argument shall be allowed, unless this requirement is waived by the commission. All briefs shall contain a certificate of service verifying that a copy has been sent to the opposing party.

(5) Additional Evidence.

(A) After an application for review has been filed with the commission, any interested party may file an application with the commission for permission to submit additional evidence at a hearing before the full commission or its duly authorized representative. The hearing of additional evidence by the commission will not be granted except upon the ground of newly discovered evidence which could not with reasonable diligence have been produced at the hearing before the appeals tribunal. The petition for authority to submit additional evidence must set out specifically and in detail—

1. The nature and substance of the newly discovered evidence;

2. Names of witnesses to be produced; and

3. Nature of the exhibits to be introduced.

(B) The commission will consider the application to submit additional evidence and answer, if any, of opposing parties, without oral argument of the parties and enter an order either granting or denying the application. If the application is granted, the opposing party(ies) will be permitted to present rebuttal testimony. The commission is opposed, as a matter of policy, to the introduction of additional evidence except when it considers this action necessary for the furtherance of justice. Therefore, all available evidence should be introduced at the hearing before the appeals tribunal.

(C) If the commission decides to take additional evidence in any matter before it for review, notice of the hearing to secure the evidence shall be mailed to the last known

address of each interested party at least seven (7) days before the date of hearing; provided, however, that a shorter period of notice may be given if the shorter period is not prejudicial to the parties. The notice shall specify the place, date and time of hearing.

(6) The hearing shall be held either by the commission or its duly authorized representative at a place selected by the commission or by the representative. Any hearing may be adjourned, postponed or continued from time-to-time or place-to-place at the discretion of the commission or the discretion of the representative.

(7) All hearings shall be conducted in an informal but orderly manner. The commission and its representative shall follow in each case that procedure which it believes will best develop all of the pertinent facts with respect to the issues without regard to common law or statutory rules of evidence and other technical rules of procedure. The commission or its representative may examine all parties and witnesses and shall determine the order or procedure for each hearing.

(8) Any individual may appear for him/herself in any hearing. Any partnership may appear by any of its members. An officer of a corporation or association or any other duly authorized person may attend a hearing on an application to which the corporation or association is an interested party and may be a witness in the hearing. Any party may be represented by an attorney-at-law and no one who is not an attorney may appear in a representative capacity. Persons whose presence would be detrimental to the proper conduct of the hearing may be excluded from the hearing room by the commission or its duly authorized representative.

(9) Subpoenas to compel the attendance of witnesses and the production of records at a hearing may be issued by the commission or its representative upon a statement of the necessity therefore made by the party requesting the issuance of the subpoena.

(10) Witnesses subpoenaed for the hearing before the commission or its representative shall be allowed mileage and per diem at a rate fixed by the division. These witness fees and mileage shall be claimed at the time of hearing and shall be certified to by witness. Approved payment shall be made out of the Unemployment Compensation Fund. Under no circumstances shall parties to the case be granted witness fees or mileage.



(11) An application for review filed more than thirty (30) days from the date of notification or mailing by the division is untimely. Untimely applications may be summarily denied by the commission without consideration of the merits.

AUTHORITY: sections 286.060 and 288.200, RSMo Supp. 1997 and 288.230, RSMo 1994. This version of rule filed Dec. 18, 1975, effective Dec. 28, 1975. Amended: Filed July 6, 1987, effective Oct. 11, 1987. Amended: Filed Aug. 31, 1989, effective Nov. 26, 1989. Amended: Filed Dec. 4, 1991, effective May 14, 1992. Amended: Filed Sept. 24, 1992, effective April 8, 1993. Emergency amendment filed July 25, 1996, effective Aug. 28, 1996, expired Feb. 23, 1997. Amended: Filed July 25, 1996, effective Jan. 30, 1997. Amended: Filed Nov. 26, 1997, effective May 30, 1998.*

**Original authority: 286.060, RSMo 1945, amended 1947, 1980, 1995; 288.200, RSMo 1951, amended 1984, 1992, 1996; and 288.230, RSMo 1951.*