

# How to file an appeal.

## Information about unemployment benefits.



**Note to employers:** This brochure is primarily for people who applied for unemployment benefits, but the procedures for filing an appeal are similar for you, too. You may appeal any decision related to why someone is no longer working for you if you are the last employer or a base-year employer. You may appeal other decisions if you provided the department with relevant information regarding eligibility for a specific week. You also may appeal if we deny your request for relief of benefit charges to your account, or if we deny your request to approve or extend standby status for your workers. For more information, see page 16 of the Tax Handbook or call your District Tax Office.

### When can I file an appeal?

If you disagree with the Employment Security Department's (ESD) decision about your unemployment benefits, you have the right to appeal that decision. For example, you may disagree with:

- A final decision about your benefit amount (your final "Redetermination of Benefits, Wages and Hours").
- A written decision to deny or reduce your benefits.
- A decision to deny your training application.
- The reason you were overpaid unemployment benefits.
- The amount of the overpayment

### How do I file an appeal?

If you disagree with our decision, send us an appeal within 30 days after the date we sent your decision.

Choose one of these methods to submit your appeal:  
Online services; Mail or Fax

We cannot accept appeals by email. If you mail or fax your letter, send it to the address or fax number in the decision letter. Your letter must include:

1. The decision(s) that you want to appeal.
2. The reason(s) you disagree with our decision.
3. Your name and Social Security number.
4. Your current address and telephone number.
5. Your signature.
6. If your appeal is late, explain the reasons it is late.

If you do not respond within 30 days, you may lose your appeal rights. Once we receive your letter, it will be filed with the Office of Administrative Hearing (OAH). If the appeal is filed late, our efforts to recover benefit overpayments from you will continue.

### Continue filing weekly claims

Continue filing weekly claims during the appeals process for weeks you want to be paid. If you win your appeal, you will be paid only for weeks you claimed and met the eligibility requirements. If you lose your appeal, you may have to repay benefits you received. If you are unable to file your weekly claims online or by phone, call the claims center for help. 800-318-6022.

## What happens next?

OAH is a separate state agency from ESD that conducts appeal hearings. An administrative law judge (ALJ) will hear your case. OAH mails you a hearing notice showing the hearing date and time with a brochure describing how to prepare for the hearing. Most hearings are conducted by telephone and you will need to call the number included in your hearing notice. During the hearing, all testimony is given under oath. If you have witnesses, they should have first-hand knowledge of the details of the case.

## The decision:

Within two weeks after the hearing, the ALJ sends you a written Initial Order telling you the decision and explaining the result.

## What if you still disagree?

If you disagree with the OAH Initial Order, you can file a Petition for Review with our Commissioner's Review Office (CRO). You can file your petition using online services. You may also send it in writing, postmarked and mailed to our Agency Records Center within 30 days after the OAH Initial Order mailing date. Your Petition for Review must include:

- The docket number from OAH's Initial Order.
- The reason(s) you disagree with OAH's Initial Order.
- Your name and Social Security number.
- Your current address.
- Your signature.
- If your Petition for Review is late, explain the reason(s) it is late.

If submitting by mail, your Petition for Review cannot be more than five pages including attachments. The Review Judge will not consider any additional pages and will return them to you. Mail your Petition for Review to:

Agency Records Center  
PO Box 9555, Olympia WA 98507-9555

The CRO will dismiss your Petition for Review as improperly filed if you mail it to any other address or send it by fax.

A Review Judge (not the ALJ who conducted your hearing) will review the case. Only OAH's Initial Order and the evidence from your hearing (the hearing tape and exhibits) are reviewed. You do not testify, and the Review Judge will not consider any new evidence.

To request a copy of the hearing tape before you file your Petition for Review, email ESD Records Management at [recordsmgnt@esd.wa.gov](mailto:recordsmgnt@esd.wa.gov). In the email include the claimant name and docket number. Call (360)-902-9534 if you have any further questions about making your request. You must make your request within the 30-day filing deadline.

***If you change your email or mailing address after filing your appeal, notify the claims center and OAH immediately.***

## How do I prepare for my hearing?

**Review your file:** You have the right to a copy of your claim file. When you appeal, the claims center forwards the appeal and relevant documents to OAH. When OAH schedules your hearing, they send you copies of these documents. The documents may contain your statement, your employer's statement, witness statements and decisions by our staff. It is important for you to review the documents to prepare for your hearing.

Usually, you cannot receive unemployment benefits if you quit your job without good cause. You may be able to receive benefits if you were fired and there was no misconduct involved. Your employer may have told us that you quit, but you think you were fired. A careful review of all information in your file gives you a good idea what your employer might say at the hearing, and help you to prepare your case.

**Review employer records:** Your employer is required by law to keep records showing your hours worked and why your job ended. You have the right to see your personnel record.

These records may be helpful in proving your case. For example, your employer may claim you were fired for missing too much work. Ask the employer for these records. If the employer denies your request, the instructions mailed from OAH with your hearing notice explain how to get a subpoena for these records.

## Limited English skills

If you need an interpreter, tell us in your appeal letter the language you (or your witness) speak best. An interpreter is provided at the appeal hearing at no cost to you.

## Find legal assistance

You can have someone assist you at your hearing. If you need advice and cannot afford an attorney, contact:

### Unemployment Law Project:

**Phone:** 206-441-9178 or 888-441-9178

**Address:** 1904 Third Avenue - Suite 604, Seattle WA 98101

**Website:** [unemploymentlawproject.org](http://unemploymentlawproject.org)

**Access to Justice:** 206-443-9722 or 800-945-9711

**Washington Law Help:** [washingtonlawhelp.org](http://washingtonlawhelp.org)

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**The Employment Security Department provides this brochure to help you file an appeal. If you have questions, call the claims center at 800-318-6022.**

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The Employment Security Department is an equal opportunity employer/programs. Auxiliary aids and services are available upon request to individuals with disabilities. Language assistance services for limited English proficient individuals are available free of charge. Washington Relay Service: 711