INDIANA
WORKFORCE
DEVELOPMENT
AND ITS WorkOne CENTERS

TO: Indiana's Workforce Investment System

FROM: Teresa L. Voors
Commissioner, Indiana Department of Workforce Development

THROUGH: Dustin Stohler
General Counsel

DATE: January 2, 2009

SUBJECT: DWD Policy 2008-32
Unemployment Insurance Review Board Procedures

Purpose
To explain the policies and procedures of an appeal of an administrative law judge decision to the Unemployment Insurance Review Board

Rescission
None

Contents
In the interest of providing a fair and impartial forum for claimants and employers with unemployment insurance (UI) benefit claim disputes, Indiana Code § 22-4-17-5 provides for the Unemployment Insurance Review Board (UIRB) to decide appeals. The following is a detailing of some of the procedural information.

Interested Parties
Any interested party in the claim of an employee will be entitled to a hearing before the UIRB relative to the merits of the claim. An interested party includes:

1. any claimant for benefits;
2. any employer whose account may be affected by the adjudication of the claim;
3. any employer in the claimant's base period;
4. any employer who has made an offer of work to the claimant or to whose employment claimant has been furnished a referral; and/or
5. the claimant's last or separating employer.

Representation

Any employer or employing unit interested in any benefit claim pending before the UIRB may appear:

1. by an individual who is employed by or has an ownership interest in the employer or employing unit
2. by attorney, officer, or member of the firm or its local manager;
3. by a recognized public accountant; or
4. a representative of an unemployment compensation service firm.

Any claimant may appear:

1. in person and represent his own interest; or
2. by an attorney, recognized public accountant, or authorized agent of any bona fide labor organization.

Additionally, any interested party may be represented by an individual or member of a class of individuals authorized by rule of the Indiana supreme court to represent parties in judicial or quasi-judicial proceedings.

The UIRB may, in its discretion, refuse to allow any person to represent a party in any proceeding before it, if it finds that this person is or has been guilty of unethical conduct or has intentionally or repeatedly failed to observe the provisions of IC § 22-4, and/or the regulations and policies of the Indiana Department of Workforce Development.

Filing an Appeal

Within fifteen (15) days after the mailing of the decision of the administrative law judge (ALJ), the adversely affected party may appeal to the UIRB. The appeal must be in writing and signed by the appealing party. The appeal must contain the case number, the claimant's Social Security number, and a short explanation of the reason for the appeal. The appeal must be mailed, faxed or delivered to the UIRB. If the adversely affected party fails to appeal within fifteen (15) days from the date of the mailing of the decision of the ALJ, the ALJ's decision becomes final. If the adversely affected party appeals the decision by placing the appeal in the United States mail, three (3) additional days will be allowed for the receipt of the appeal.

The UIRB may grant or deny a request for hearing and will immediately notify all parties in writing. If a hearing is granted, the UIRB will notify the parties in writing of the hearing at least 10 days prior to the date of the hearing.

Unless otherwise provided, all forms, pleadings, and papers in connection with disputed claims should be filed with the UIRB. All legal motions filed by attorneys or representatives will be served on all interested parties with a certificate of service.

Hearing Notice

Notice of all hearings or proceedings before the UIRB, unless otherwise directed by statute, will be given by mail and the proof of the mailing of any notice will be prima facie proof of the service. Notices and the time period which commences with the service of the notices under the appellate regulations will comply with IC § 22-4-17-14.

Conduct of Proceedings

Hearings before the UIRB will be conducted in the following manner:

1. The UIRB may continue any hearing upon its own motion or upon written application of any party to the appeal.
2. The written application must be received not later than three days before the date of hearing.
3. An application for a continuance of a hearing pending before the UIRB should be made to the chairman of the UIRB.
4. The UIRB may, in its discretion, dismiss any appeal which in its judgment has been abandoned by all interested parties, and the decision from which the appeal was taken shall be deemed final unless the appeal is reinstated as provided.
5. No appeal will be dismissed as abandoned if any of the interested parties appears in person or by representative at the UIRB hearing and refuses his consent to the dismissal.
6. An appealing party will be deemed to have abandoned his or her appeal to the UIRB if neither the party nor his or her representative personally appears at the time and place fixed for the UIRB hearing; except that in a proceeding before the UIRB to review a decision of an ALJ, the party appealing, or any other interested party may, in lieu of personal appearance or representation, submit to the UIRB, not later than three days prior to the date set for a hearing, the individual's written request that the appeal be heard and decided upon the evidence in the record made before the ALJ.

Decision

The Unemployment Insurance Review Board will, as promptly as possible, issue a decision with conclusions of law supported by specific findings of fact. The decision will be in writing and will be signed by the members of the UIRB who heard the appeal.

If a decision of the UIRB is not unanimous, the decision of the majority will control, but the dissenting member may file an opinion.

Copies of the decision, together with any dissenting opinion, will be mailed to parties, the parties' representatives or attorneys, and the claim holding office.

A decision of the UIRB which reverses, in whole or in party, the decision of the ALJ will not incorporate by reference or restatement, in whole, the findings of the ALJ, but rather should contain its own findings and conclusions.

Review Date

December 31, 2009

Ownership

Chair of the Unemployment Insurance Review Board
Indiana Department of Workforce Development
325 West Washington Street
Indianapolis, IN 46204
Telephone: 317.232.7719

Effective Date
January 1, 2009

Action
Indiana's workforce investment system will follow the guidance contained in this policy. Directors and managers will ensure that staff who work with this policy's subject matter are aware of the details contained in this policy and follow its guidelines.