

immediately notify DES in writing (by mail, fax, or email) within 7 days after the effective date of the address change. Employers must send notice of a change in address: by mail to Tax Administration Section, ATTN: Address Change, Post Office Box 26504, Raleigh, North Carolina, 27611; fax to (919) 715-7194; or email to des.tax.customerservice@nccommerce.com. If you have an appeal pending, please notify the section handling your appeal.

Should I continue to file claims for benefits until all appeals have been decided?

Yes. If you are unemployed, you should continue to file your weekly certification until all appeals have been decided. Benefits will not be paid for weeks not claimed. See N.C. Gen. Stat. §§ 96-14.9 and 96-15(b)(2).

What happens after the Board completes its review of my case?

The Board will issue a written decision after reviewing the record of the case. The Board's written decision is called a Higher Authority Decision (HAD). You will find the docket number at the top right on the first page of the document. The HAD may affirm, reverse, or modify the decision that was made by the Appeals Referee. The HAD may deny a party's request for another hearing, dismiss the appeal if the appeal was not filed within the required time frame, or dismiss the appeal if the appealing party does not provide a clear, written statement explaining the reasons for appealing the Appeals Decision. The HAD may also order the Division to hold another hearing, and will contain information about further appeal rights. See N.C. Gen. Stat. § 96-15(e); 04 N.C. Admin. Code 24C .0506.

Can I get a copy of the documents in the file or a transcript of the hearing?

Yes. If an appeal is filed and pending, you may request a free copy of the recording of the hearing. If there is no pending appeal, a recording of

the hearing and/or written transcript of the hearing may be provided for a fee. See N.C. Gen. Stat. § 96-4(x); 04 N.C. Admin. Code 24A .0205; and 04 N.C. Admin. Code 24C .0502.

Where can I get a copy of the Employment Security Law?

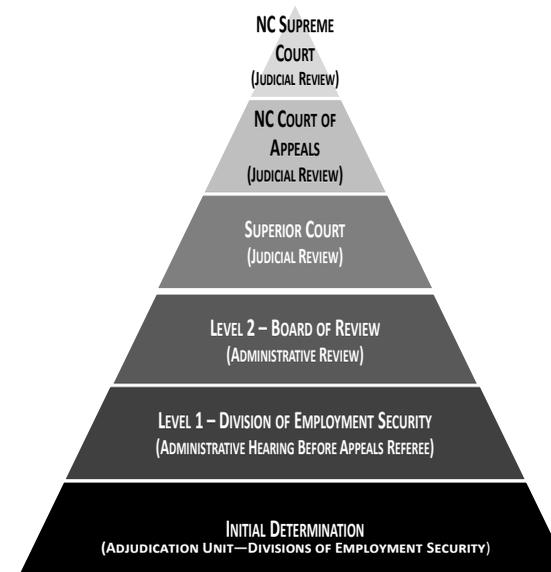
The Employment Security Law is found in Chapter 96 of the North Carolina General Statutes and in Title 4, Chapter 24 of the North Carolina Administrative Code. You can access a copy of the governing law on the DES website at des.nc.gov, General Assembly's web-site at www.ncga.state.nc.us, or the Office of Administrative Hearings website at www.oah.state.nc.us/rules.

SPECIAL NOTICE TO CLAIMANTS: If you were receiving or have previously received unemployment insurance benefits in connection with the underlying claim and the Appeals Decision rules you ineligible or disqualified for all or part of such benefits, you may now have an overpayment of benefits pursuant to N.C. Gen. Stat. § 96-18(g)(2). If an overpayment is created by an Appeals Decision, you will be mailed a separate Notice of Overpayment or Determination of Overpayment from the Division's Benefits Integrity/Benefit Payment Control Section. The Notice of Overpayment or Determination of Overpayment will specify, among other things, the amount of your overpayment and any penalties that apply. Please note that the only way you may contest the overpayment is to file an appeal of the Appeals Decision with the Board as provided in the Appeals Decision, and in accordance with North Carolina law. In your petition, you must specify whether you are appealing (1) the issue of disqualification or eligibility and/or (2) the resulting determination that you received an overpayment of benefits.

FILE APPEAL OF AN APPEALS DECISION TO THE BOARD OF REVIEW BY MAIL, FAX, OR EMAIL.

**Appeals Clerk - Level 2
Board of Review
North Carolina Department of Commerce
Post Office Box 28263
Raleigh, NC 27611
Fax: (919) 733-0690
Email: des.ha.appeals@nccommerce.com
Website: des.nc.gov**

LEVELS OF APPEALS - CLAIMS



Published by the North Carolina Department of Commerce
For more information visit des.nc.gov
Form NCDES 569-E (Rev. 1/2017)



APPEALING A DECISION



LEVEL 2

APPEALING AN APPEALS DECISION

This pamphlet contains important information about your rights under the Employment Security Law. It explains the process for filing an appeal after a hearing has been held by an Appeals Referee in the Division of Employment Security's Appeals Section.

If you do not comply with all the requirements established by law, you may lose your right to appeal.

For claims filed on or after June 30, 2013, claimants are subject to repayment of overpayment of benefits resulting from any decision that is later reversed on appeal. N.C. Gen. Stat. § 96-18(g)(2).

The unemployment insurance program in North Carolina is administered by the North Carolina Department of Commerce, Division of Employment Security (DES).



For more "Frequently Asked Questions" (FAQs) about appeals, visit the DES website at des.nc.gov.

Usted puede obtener una copia de este folleto en español en la oficina de I Departamento de Comercio, División del Desempleo de Carolina del Norte .

How will I know which document I am appealing?

Each document has an identifying name and/or number. A document's identifying information is usually found at or near the top of the document, or at the bottom of the document. The decision issued by the Appeals Referee after your hearing is called an Appeals Decision. The docket number is located at the top right on the first page of the decision.

What is the deadline for filing my appeal?

An appeal from an Appeals Decision must be filed within ten (10) days from the date the decision is mailed. The mailing date is found on the last page of the Appeals Decision. The date listed in the document that you are appealing controls your deadline. If the appeal deadline falls on a weekend or a legal state holiday, the appeal period ends on the next work day. See N.C. Gen. Stat. § 96-15(c).

What should I say if I appeal an Appeals Decision that is not in my favor?

The North Carolina Department of Commerce, Division of Employment Security and the North Carolina Department of Commerce, Board of Review ("Board") cannot tell you what to say in your appeal. You may consult an attorney for legal advice. Your appeal must be in writing. There is no special form to file an appeal. You must state your desire to appeal and explain the reasons that you disagree with the decision. Include the claimant's social security number, the docket number of the determination, and sign and date the appeal. If you are the employer, you must also include the name of your business and the name and title of the person filing the appeal on your behalf. See 04 N.C. Admin. Code 24C .0501.

Who reviews and decides appeals from the Appeals Referee's decisions?

The Board decides cases that are appealed from the Division's Appeals Section. The Board is made up of three members who are appointed by the Governor and confirmed by the General Assembly. See N.C. Gen. Stat. §§ 96-15(e) and 96-15.3.

Can I talk to the Board members about my case?

No. It is improper and unethical for the Board members to discuss cases with any party or witness. The Board will not discuss cases, and the Board's staff cannot discuss your individual case with you. Board staff can assist with general procedural questions. The Board may be reached at (919) 707-1610.

Where can I get more information if I have questions about procedures?

You should first visit the "Frequently Asked Questions" section of the Division's website at des.nc.gov, or call the Division's Legal Services Section at (919) 707-1025.

Will the Board give me another hearing if I file an appeal from an Appeals Decision?

Generally, no. The Board will review your written appeal and the record on appeal (the testimony, recordings, and documents presented as evidence at the hearing before the Appeals Referee). The Board will also review written statements on points of law (whether the hearing was conducted in a way that met all legal and procedural requirements). The Board's decision will be based on its review.

What should I do if someone tells me to file an appeal in a way that is different from the written instructions that I received with the Appeals Decision?

You are responsible for following the written instructions. Information contained in the Employment Security Law (Chapter 96 of the North Carolina General Statutes and Title 4, Chapter 24 of the North Carolina Administrative Code) cannot be overridden by something that someone told you.

What happens after I file an appeal of the Appeals Decision?

After your appeal of the Appeals Decision is filed, you will receive a letter acknowledging receipt of the appeal. The letter will also explain that you can submit written legal arguments and request to appear before the Board to present oral arguments. The Appeals Clerk will also assemble the record of the

hearing and forward it to the Board for review and decision. See 04 N.C. Admin. Code 24C .0501.

Will I be allowed to appear in person to present oral arguments on points of law?

Maybe. You may make a written request to appear before the Board in Raleigh, NC to present oral arguments. Oral arguments must be based on testimony and evidence presented at the hearing before the Appeals Referee. It is a chance for the parties to summarize whether or not the hearing met all legal and procedural requirements. It is not an opportunity to present testimony or other evidence. Each party is given 15 minutes to make arguments. Granting a request to allow oral arguments is entirely within the discretion of the Board, and occurs in very few cases. If you make a request, the Board will respond to your request in writing. See 04 N.C. Admin. Code 24C .0503.

If I file an appeal, may I later withdraw my appeal?

Yes. You may withdraw your appeal in writing before the Board makes a decision in the case. You must include your name, the appeals docket number, and state that you are voluntarily withdrawing your appeal. If the request is granted, a decision will be issued dismissing your appeal and stating that the Appeals Decision is final.

Am I required to have legal representation to appeal an Appeals Decision?

You may, but are not required to have legal representation in administrative proceedings. Claimants or employers may file their own appeals and represent themselves (pro se) throughout the administrative appeal process, or have a legal representative represent them. Legal representatives should be obtained before any administrative review. See 04 N.C. Admin. Code 24C .0504.

Who can be a legal representative?

A legal representative must be a licensed attorney, or a person supervised by a licensed attorney. See N.C. Gen. Stat. § 96-17(b) and Chapter 84 of the North Carolina General Statutes.

Where can I find an attorney?

You may call the North Carolina Bar Association's Lawyer Referral Service at (800) 662-7660, Legal Aid of North Carolina toll-free at (866) 369-6923, or check your local telephone directory.

Do I have to tell the Board that I have a legal representative?

Pursuant to 04 N.C. Admin. Code 24C .0504(e), notices or certification of representation must be in writing and provided to the Board to become part of the official record. When you have a legal representative, all information required to be provided to you will only be sent to your legal representative, unless you make a written request to the Board containing other instructions. See 04 N.C. Admin. Code 24C .0504.

As a claimant, what should I do if my address has changed?

DES generally sends all correspondence to your last known address. Pursuant to 04 N.C. Admin. Code 24A .0102, you must immediately notify DES in writing (by mail, fax, or email) within 7 days after the effective date of any address change. You must send notice of your new address: by mail to Benefits Integrity Unit, Post Office Box 25903, Raleigh, NC 27611; fax to (919) 733-1369; or email to des.ui.bpc@nccommerce.com. If you have an appeal pending, please notify the section handling your appeal. "Last known address" means the most recent address that you provided to DES for its official records. DES updates addresses in its records with data from the United States Postal Service (USPS) National Change of Address (NCOA) database. If your last known address in DES's records match a taxpayer's name and previous mailing address in the NCOA database, the new address in the NCOA database is your last known address. See 04 N.C. Admin. Code 24A .0105(31).

As an employer, what should I do if my address has changed?

Pursuant to 04 N.C. Admin. Code 24A .0102, you must