

Article - Labor and Employment

§8–806.

(a) (1) Except as provided in subsection (b) of this section a claims examiner promptly shall make a determination on a claim filed under § 8–805(a) of this subtitle.

(2) Whenever a determination involves resolution of a dispute of material fact, a claims examiner shall:

(i) conduct a predetermination proceeding; and

(ii) give each party notice of the time and place of the proceeding.

(b) (1) A claim shall be referred to the Board of Appeals if determination of the claim involves:

(i) a disqualification based on a stoppage of work due to a labor dispute;

(ii) multiple claims; or

(iii) a difficult issue of fact or law.

(2) The Board of Appeals promptly shall hear and decide each claim referred to it under this subsection.

(c) (1) Every initial determination shall state:

(i) whether the claimant has been paid the wages required by § 8–802 of this subtitle;

(ii) the weekly benefit amount of the claimant for the benefit year; and

(iii) the maximum benefits payable to the claimant for the benefit year.

(2) Each determination shall include a statement as to:

(i) whether a claimant is eligible for benefits for the week for which the determination is made;

(ii) the benefits to which the claimant is entitled; and

(iii) the reasons for the determination.

(d) (1) On determination of a claim, the Secretary promptly shall mail notice of the determination to the claimant at the last known address of the claimant or otherwise deliver it to the claimant.

(2) Except as provided in paragraph (3) of this subsection, on determination of a claim that involves application of § 8–903(a) of this title or disqualification under Subtitle 10 of this title, the Secretary promptly shall:

(i) mail notice of the determination to the last employing unit of the claimant at the last known address of the employing unit or otherwise deliver it to that employer; and

(ii) include in the notice the reasons for the determination.

(3) If, before a determination, an employer fails to indicate, in accordance with regulations of the Secretary, that a claimant may be disqualified or ineligible for benefits, the Secretary need not notify the employer of the determination.

(e) (1) A determination is final as to a claimant and an employer who is entitled to notice of the determination unless:

(i) within 15 days after the mailing or other delivery of the notice, the claimant or employer appeals the determination; or

(ii) after the time for an appeal on an initial determination has passed, the Secretary may make a redetermination under subsection (f) of this section.

(2) The chief hearing examiner of the Lower Appeals Division, for good cause, may extend the time for an appeal under this subsection.

(f) (1) If an interested party does not appeal an initial determination, the Secretary may redetermine:

(i) the eligibility of the claimant to receive benefits;

(ii) the weekly benefit amount of the claimant;

(iii) the maximum benefits payable to the claimant in a benefit year;

and

(iv) the decision to recover an overpayment.

(2) In accordance with subsection (d) of this section, the Secretary shall send notice of the redetermination to the claimant and an employer who is entitled to notice.

(3) A redetermination is final unless an appeal is filed in accordance with subsection (e) of this section.

(g) (1) Within 15 days after the date of mailing of the notice or the date of delivery, a claimant or employing unit entitled to notice of a determination or redetermination under this section may appeal to the Lower Appeals Division.

(2) The Secretary may, at the Secretary's discretion, be a party to an appeal filed by a claimant or employing unit with the Lower Appeals Division.

(3) Unless an appeal of a determination or redetermination under this section is withdrawn or removed to the Board of Appeals, a hearing examiner shall:

(i) give the parties a reasonable opportunity for a fair hearing in accordance with the notice provisions in §§ 10–207 and 10–208 of the State Government Article, except that the provisions of § 10–208(b)(4) and (7) of the State Government Article do not apply;

(ii) make findings of fact and conclusions of law; and

(iii) on the basis of those findings and conclusions, affirm, modify, or reverse a determination or redetermination.

(4) If an appeal involves an issue of whether employment that a claimant performed is covered employment:

(i) the hearing examiner shall give special notice of the issue and appeal to the Secretary and employer; and

(ii) on receipt of the notice, the Secretary and employer shall be parties to the proceeding and be given reasonable opportunity to offer evidence on that issue.

(5) The hearing examiner promptly shall mail to each party at the last known address of the party or otherwise deliver to the party:

(i) notice of the decision of the hearing examiner; and

(ii) a copy of the decision and the findings of fact and conclusions of law that support the decision.

(6) A decision under this subsection is final unless within 15 days after the mailing or other delivery of notice of the decision, further review is initiated under subsection (h) of this section.

(h) (1) When a party files an appeal of a decision under subsection (g) of this section:

(i) if the hearing examiner did not affirm the determination or redetermination of the claim, the Board of Appeals shall allow the appeal; and

(ii) if the hearing examiner affirmed the determination or redetermination, the Board of Appeals may allow the appeal.

(2) On the filing of an appeal or on its own motion, the Board of Appeals

may affirm, modify, or reverse the findings and conclusions of a hearing examiner on the basis of evidence that was submitted previously in the case or that the Board of Appeals directs to be taken.

(3) The Board of Appeals promptly shall mail notice of its decision, including its findings and conclusions, to the last known address of each party or otherwise deliver the notice. The decision is final subject to judicial review after 10 days after the mailing or other delivery.

(4) If the Board of Appeals does not allow an appeal of a decision of a hearing examiner:

(i) the decision of the hearing examiner is considered to be a decision of the Board of Appeals;

(ii) the decision is subject to judicial review within the time and in the manner provided for a final decision of the Board of Appeals; and

(iii) the time for appeal begins on the date of the notice of the order of denial of the application for appeal to the Board of Appeals.