

Department of Legislative Services
Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE

House Bill 432

(Chair, Economic Matters Committee) (By Request –
Departmental – Labor, Licensing, and Regulation)

Economic Matters

Finance

**Department of Labor, Licensing, and Regulation - Unemployment Insurance
Claims - Lower Appeals Division**

This departmental bill establishes a Lower Appeals Division in the Department of Labor, Licensing, and Regulation to hear and decide appeals of unemployment insurance determinations.

Fiscal Summary

State Effect: None. The bill essentially codifies the division of responsibilities of DLLR's Lower Appeals Division and Board of Appeals.

Local Effect: None.

Small Business Effect: DLLR has determined that the bill has minimal or impact on small business (attached). Legislative Services concurs with this assessment.

Analysis

Bill Summary: The Secretary of Labor, Licensing, and Regulation must appoint a chief hearing examiner in the professional service as head of the Lower Appeals Division, who is responsible for appointing hearing examiners and other personnel. A hearing examiner is authorized to administer an oath, certify an official act, take a deposition, and issue a subpoena. The hearing examiner is not bound by statutory or common law rules of evidence or technical rules of procedure.

An individual who files a claim for benefits or an employer entitled to notice of a determination or redetermination of a claim may file an appeal with the Lower Appeals Division within 15 days after notice is mailed to the claimant or employer. The Secretary may be a party to an appeal filed by a claimant or employing unit with the Lower Appeals Division. A record must be kept of all proceedings. Both claimants and employers may be represented by counsel and witnesses may be compensated if subpoenaed.

A hearing examiner must notify all parties in writing of a decision, including findings of fact, conclusions of law, and any order necessary to give effect to the decision. The decision of the hearing examiner is final unless review is initiated with the Board of Appeals. A hearing examiner may not participate in any proceeding in which the hearing examiner has a direct or indirect interest. The status of the Secretary as a party to a case does not constitute a direct or indirect interest.

Current Law: A decision of an unemployment insurance claims examiner may be appealed to the Board of Appeals, which consists of a chairman and two associate members appointed by the Secretary of Labor, Licensing, and Regulation with approval of the Governor. The board's hearing examiners and other personnel are appointed by the Secretary with the board's approval.

Claims are generally heard by a hearing examiner designated by the Board of Appeals; however, the Secretary must directly refer certain claims to the Board of Appeals involving labor disputes, multiple claims, or difficult issues of fact or law.

In claims before the Lower Appeals Division, a hearing examiner must • give parties a reasonable opportunity for a fair hearing; • make findings of fact and conclusions of law; and • affirm, modify, or reverse a determination or redetermination. Either party may file an appeal with the Board of Appeals within 15 days after notice of the decision is mailed. The Board of Appeals may affirm, modify, or reverse the findings of fact or conclusions of law of the hearing examiner on the basis of evidence submitted to the hearing examiner or evidence heard by the board.

A decision of the Board of Appeals may be appealed to a circuit court by any party aggrieved by the decision, the Secretary, or both. In general, findings of fact of the Board of Appeals are conclusive and the court is confined to questions of law. A party may appeal from a decision of the circuit court to the Court of Special Appeals in the same manner as provided for in civil cases. On final decision, the Board of Appeals must pass an order in accordance with the decision.

Background: The bill establishes a Lower Appeals Division to hear unemployment insurance claims cases that are appealed from the determination of a claims examiner. Under current law, the division's hearing examiners are appointed by the Secretary subject to the approval of the Board of Appeals. The hearing examiners derive their authority from the Board of Appeals, which is also responsible for reviewing appeals of the hearing examiners' decisions.

The bill establishes the Lower Appeals Division as administratively independent of the Board of Appeals. The board's functions and responsibilities are unchanged. The bill also clarifies that the status of the Secretary as a party to a case does not disqualify a hearing examiner from participating in a proceeding.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Office of Administrative Hearings; Department of Labor, Licensing, and Regulation; Department of Legislative Services

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mll/ljm

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