

# THE APPEAL PROCESS



## Protesting a Determination

- “Protest” of Determination (requesting Redetermination) must be in writing and **RECEIVED** by the UIA within 30 days of mailing of the “Determination”
- “Protest” should be specific about what the party disagrees with, and why

If either party (claimant or employer) disagrees with a benefit Determination, or if the employer disagrees with a tax Determination, the party can file a “Protest” and request a Redetermination. It is helpful to provide reasons for the disagreement with the Determination that the Agency can take into consideration in deciding whether to affirm, modify, or reverse the original Determination.



## UIA issues Redetermination

- In response to “protest”, the UIA issues a “Redetermination”
- The Redetermination will either affirm, reverse, or modify the Determination.

If the protest letter is received within the 30-day protest period, the UIA will consider the information it presents and issue a new document called a “Redetermination.” The Redetermination will either agree with, disagree with, or modify the Determination.



## Appealing a Redetermination

- “Appeal” for hearing must be in writing, signed, and **RECEIVED** by the UIA within 30 days of mailing of the “Redetermination”
- “Appeal” should be specific about what the party disagrees with, and why

Whichever party (claimant or employer) is dissatisfied with the “Redetermination” can send the UIA a paper called an “appeal.” Like the protest of a Determination, an appeal from a Redetermination must be received by the UIA within the 30-day period I just described. The appeal should be specific as to what the appealing party disagrees with and why. The appeal must be signed in order to be accepted.



# HEARING BEFORE ADMINISTRATIVE LAW JUDGE (ALJ)





## Hearing before Administrative Law Judge (ALJ)

- The hearing may be in person, or by telephone.
- The hearing is not just a meeting; it is similar to a court proceeding; the parties and their witnesses are sworn in; documents presented are marked as exhibits; “hearsay” testimony is generally not permitted.

When an appeal from a Redetermination is filed on time, the UIA will send the case to the Michigan Administrative Hearing System for scheduling a “hearing” before an Administrative Law Judge. The hearing will be held either at the office of the Judge, or by telephone with the claimant and the employer each being at their own locations. A Notice of Hearing will be mailed by the Judge to both the claimant and the employer (that is, to the “parties” to the appeal), describing the issue that will be discussed at the hearing, and giving the date, time, and location of the hearing.

The hearing is not just a meeting. It is a formal proceeding where information is presented under oath, and where any documents either side wishes to present are marked as exhibits. Hearsay statements will generally not be accepted at a hearing. A “hearsay” statement is one where a claimant or employer quotes what someone else would have said if they were at the hearing. If a party needs to present the statement of another person at the hearing, they should have that person present at the hearing as a witness. The claimant and the employer have the right to obtain a subpoena through the Michigan Administrative Hearing System to compel the attendance of a witness.



## Hearing before Administrative Law Judge (ALJ)

- The Judge will not rely on documents in the UIA's file. Anything a party wants the Judge to consider must be presented at the hearing.
- The claimant and employer will have the chance to give their statements of the facts, and will be subject to "cross-examination" by the other party.
- A party may have a lawyer, Advocate, or other representative present at the hearing.

Even though both the claimant and the employer sent letters and other documents to the UIA previously, none of those documents can be considered by the Judge until they have been properly introduced at the hearing. To be properly introduced, the claimant and employer must swear to the accuracy of the documents they wish to introduce. The Judge will then decide whether the documents can be introduced at the hearing as exhibits.

At the hearing, both the claimant and the employer will have a chance to give their side of the story. The other party will have the chance to ask questions (this process is called "cross-examination").

Although it is not necessary, the parties may be represented at the hearing by a lawyer or other Advocate.





## Hearing before Administrative Law Judge (ALJ)

- If the appealing party is not present, the Judge will dismiss the case.
- The party with the “burden of proof” will start; the other party will then have the chance to cross-examine, and later to present their own side.

If the party that appealed the case is not present at the hearing (in person or by telephone), the Judge will dismiss the appeal for “lack of prosecution.” If the appealing party is present, then the hearing can proceed. The first party to be called to give their case will be the party with the “Burden of Proof.” The other party will then have the chance to ask questions, and later to present their own side of the story.



## Appeal to Michigan Compensation Appellate Commission (MCAC)

- A party can request “rehearing” of the case before the Judge, or can appeal the Judge’s decision to the Michigan Compensation Appellate Commission (MCAC)
- The “rehearing request” or the “appeal” to the MCAC must be in writing, signed, and **RECEIVED** by the UIA or the MCAC within 30 days of the date the ALJ’s decision was mailed.

The decision of the Judge could either agree with (“affirm”) the Redetermination, or totally disagree with (reverse) the Redetermination, or could partly agree and partly disagree with (modify) the Redetermination. Whichever party disagrees with the Judge’s decision can ask for rehearing of the case before the Judge, or can appeal the Judge’s decision to the Michigan Compensation Appellate Commission. Generally, the only time a Judge will permit a rehearing is if the party has NEW information that was not available at the time of the original hearing. In most cases, that won’t be true, and it usually makes more sense to appeal the Judge’s decision to the Michigan Compensation Appellate Commission. The appeal (or the rehearing request) must be received by the UIA, in writing, within 30 days of the mailing of the Judge’s decision, as I described before.



## Appeal to Circuit Court and Beyond

- A decision of the MCAC can be appealed to the circuit court
- A decision of the circuit court can be appealed, with permission, to the Michigan Court of Appeals.
- A decision of the Court of Appeals can be appealed, with permission, to the Michigan Supreme Court.

The Michigan Compensation Appellate Commission reviews the audio recording of the hearing held before the Judge, and may request a written transcript of the recording. The Commission decides whether the Judge was correct in the facts he or she found, based on the testimony and exhibits, and whether the Judge reached a reasonable conclusion in applying the law to those facts. The Commission will sometimes hold a hearing if requested by the claimant or employer, but the hearing will be for the presentation of arguments about the law, not for the presentation of new or additional facts in the case.

The Commission can affirm, modify, or reverse the decision of the Judge. The decision of the Commission can be appealed to the county circuit court. The circuit court decision can be appealed, by permission, to the Michigan Court of Appeals; a decision of the Court of Appeals can be appealed, by permission, to the Michigan Supreme Court.





## **For more information:**

Visit the Unemployment  
Insurance Agency's website at:  
[www.michigan.gov/uia](http://www.michigan.gov/uia)

For more information on the appeal and hearing process, go to the UIA's website.



# For more information:

Click on  
Publications



Click on “Publications.”





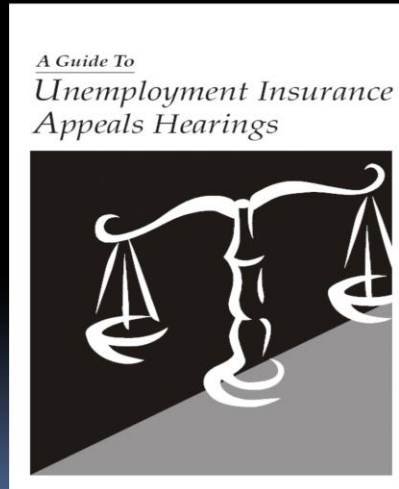
## For more information:

Click on “Publications” at the left  
Scroll down to “UIA Publications”  
and click on *A Guide to  
Unemployment Insurance  
Appeals Hearings*.

Then scroll down the page until you see the heading “UIA Publications” and click on the PDF file for the publication called “UIA 1800, A Guide to Unemployment Insurance Appeals Hearings.”



**For more information:**



This booklet will provide more in-depth information about the hearing process.



**For more information:**

Or, to watch a mock hearing, go to  
[www.michigan.gov/uia](http://www.michigan.gov/uia)

Click on  
Webcasts



Or to see a 20-minute “Mock Hearing,” click on “Webcasts” and then scroll down the page until you see the webcast of the mock hearing.



For more help preparing for the hearing:



The UIA maintains a listing of individuals who have passed an examination and can represent employers in all areas of the state, at no cost to the employer. These individuals are not employees of the UIA or of the State of Michigan. An Advocate represents either claimants or employers, but not both.





To obtain an Advocate after an appeal has been filed, the employer can call 1-800-638-3994, and connect to the Advocacy Program by pressing menu item no. 2. The employer is sent a listing of employer Advocates in their area of the State, with a brief description of each Advocate's background, and the employer then contacts the Advocate of their choosing.