

The Michigan Compensation Appellate Commission Appeal Process



What the law says: The Michigan Compensation Appellate Commission (MCAC) replaced the former Michigan Employment Security Board of Review. Appeals to the MCAC are covered by Sections 34, 37, and 38 of the *Michigan Employment Security Act*, and by Rules of Practice found at R 421.1101 – 421.1317 of the *Michigan Administrative Code*.

The law says that any party that loses its case before an Administrative Law Judge (ALJ) has a right to appeal the decision to MCAC. An appeal to MCAC must be in writing and signed or verified. It must be received by MCAC by the end of the 30th day after the ALJ's decision or order was issued. If both of the involved parties agree, they can request, by written stipulation filed with the ALJ, to by-pass the MCAC and appeal directly to circuit court.

A timely appeal to MCAC will be reviewed by a three-member panel of commissioners. They will review the recording of the ALJ hearing, and any exhibits made part of the official record. The MCAC will then either affirm (agree with), modify (change the reasons and/or partly change the result), or reverse (disagree with) the ALJ decision. The MCAC may remand (send back) the case to the ALJ for a further hearing in order to obtain additional facts necessary to decide the case.

The MCAC does not generally conduct a new hearing concerning the facts of the case. After the redetermination is issued, the ALJ hearing is usually the last level in the appeal process where the parties provide evidence that will be used by the MCAC and courts for later appeals.

The purpose of the MCAC's review of a case is first to determine if the ALJ made correct findings of fact based on the evidence presented. The MCAC is not required to agree with the Administrative Law Judge's findings. Secondly, MCAC determines if the ALJ correctly applied the law as provided in the *Michigan Employment Security Act* and precedent court decisions, to those facts.

Transcripts are available only on request, and are subject to a printing/processing fee. A download of the recording is available at no charge by calling (313) 456-0423. If the recording is very long, a CD may have to be prepared, for which there is a charge of \$25.00. A transcript currently costs \$3.25 per page, and can be ordered directly from the vendor, which is currently Regency Court Reporting. Call them at 248-360-2145 to arrange for purchase of a transcript.

Oral Argument

A party appealing a case to the MCAC may make a written request that it conduct an "oral hearing" in addition to reviewing the recording and exhibits made part of the record during the ALJ hearing. The MCAC grants such a request only in rare cases. The written request for oral hearing must be received by the MCAC not later than the 20th day after the MCAC mails the parties the "Notice of Appeal". The MCAC will then decide whether or not to grant the request for oral hearing. An oral hearing, if granted, is not a new opportunity for the parties to present the facts of their case, but is for the purpose of presenting argument as to whether the ALJ decision is correct or incorrect.

Written Argument

Generally, an application for written argument will be considered only if a request oral argument was not approved. The request for written argument must be approved by 2 or more members of MCAC assigned to review the appeal, and will only be approved if all parties are represented or all parties agree that written argument should be considered.

A decision of the MCAC can be appealed by the losing party to circuit court. The appeal period to circuit court is 30 days from the mailing date of the Decision or Order.

For Further Help: The UIA Advocacy Program can provide assistance to employers and/or unemployed workers in preparing for an Administrative Law Judge hearing. Call 1-800-638-3994, Item 2.