

APPEAL RIGHTS

APPEALING AN UNEMPLOYMENT INSURANCE DECISION OF THE LABOR AND INDUSTRY REVIEW COMMISSION TO A WISCONSIN CIRCUIT COURT

**You may appeal the Commission decision to a Wisconsin circuit court. Read the decision carefully.
If you need this information translated to another language, please contact us at (608) 266-9850.**

Unemployment Benefit Status - Disputed Benefit Claims:

If the decision allows benefits, the benefits will be paid, or continue to be paid, even though a party commences an action for judicial review. Wis. Stat. § 108.09(9)(a).

If the decision denies benefits, the claimant must continue to file claims for any weeks for which benefits are sought pending further appeal.

Commencing Legal Review of a Commission Decision:

Either party may commence a legal action for review of the Commission decision in a Wisconsin circuit court within 30 calendar days from the date the decision was mailed to the party's last known address. Wis. Stat. § 108.09(7)(a).

The action is commenced only by filing a summons and a complaint with a circuit court in Wisconsin and serving authenticated copies of the summons and of the complaint upon the Commission. An authenticated copy is a copy that has first been stamped by the clerk of court with the date the document was filed and the case number. There is no filing fee for filing an administrative agency review action.

The action must name the Commission as a defendant. Any other adverse party or parties must also be made a defendant or defendants. An adverse party is a party in whose favor the decision was made.

For disputed benefit claims involving an employer and employee, the prevailing employer or employee must be joined as a defendant in addition to the Commission. This is generally the party listed in the caption of the Commission decision. The Department of Workforce Development should not be named as an adverse party in disputed benefit cases unless the department was a party before the Commission.

For tax liability, employer coverage, or successorship related cases under Wis. Stat. § 108.10(4), the Department of Workforce Development must be joined as a defendant in addition to the Commission.

The Commissioners and authorized agents are located only in Madison at the address listed below. If the authenticated summons and complaint are mailed to the Commission, service will only be effective if they are actually received by the Commission within the appeal period (30 days). It is not sufficient for the appeal to be postmarked by the due date. Service by facsimile (FAX) is not sufficient to commence a court action.

Both the filing of the summons and the complaint with the court and service of authenticated copies must be completed within 30 calendar days of the decision date. Service must be made upon a Commissioner of the Labor and Industry Review Commission or an agent authorized by the Commission to accept service.

Service upon the Commission is considered complete service on all parties but you must provide as many authenticated copies of the summons and the complaint as there are defendants. Wis. Stat. § 102.23(1)(a). For example, in a benefit claim involving an employer and employee, service must be made on the Commission of two authenticated copies of the summons and the complaint, one for the Commission and one for the employer or employee.

The case must be filed in the circuit court of the Wisconsin county where the plaintiff resides, except:

If the plaintiff is a state agency, the proceedings must be in the circuit court of the Wisconsin county where the defendant resides.

If the plaintiff is a nonresident of Wisconsin, the proceedings must be in the Wisconsin county where the claim arose.

The proceedings may be brought in any Wisconsin circuit court if all parties stipulate and that court agrees.

For other circumstances, venue shall be as set forth in Wis. Stat. § 801.50(2)(a).

The complaint must state the grounds upon which review is sought, or the reasons for the appeal.

The judicial review provisions in Wis. Stat. ch. 227 (Administrative Procedure), § 801.02 (Civil Procedure), and ch. 799 (Small Claims) do not apply.

For delivery by private carrier or service in person:
Labor and Industry Review Commission
3319 West Beltline Highway, 2 West
Madison WI 53713

For delivery by U.S. Postal Service:
Labor and Industry Review Commission
P.O. Box 8126
Madison WI 53708

It is the responsibility of the appealing party to arrange for preparation of the necessary legal documents since neither the Commission nor its representatives may assist in such preparation. A copy of these appeal rights and answers to frequently asked questions (FAQs) are available at <http://dwd.wisconsin.gov/lirc/appeal/default.htm>