

PRE-REGISTRATION

11.2.4 Notice of Hearing. Notices specifying the time ~~and place~~ AND DATE of the hearing AS WELL AS INSTRUCTIONS FOR THE PROPER METHOD OF PARTICIPATION shall be mailed, transmitted by facsimile machine, or transmitted by electronic means to each party to the appeal at least ten calendar days before the scheduled hearing date. ~~If participation in the hearing by telephone is permitted, the notice will inform the parties and include instructions for such participation.~~ IF PARTICIPANTS ARE REQUIRED TO REGISTER FOR THEIR HEARING, THE NOTICE SHALL CONTAIN INSTRUCTIONS REGARDING THE METHOD OF REGISTRATION.

11.2.9 Conduct of Hearing. Hearings shall be conducted informally with as few technical requirements as possible. The hearing officer shall control the evidence taken during a hearing in a manner best suited to ~~fully and fairly~~ develop, FULLY AND FAIRLY the relevant evidence, safeguard the rights of all parties, and ascertain the substantive rights of the parties based on the merits of the issue(s) to be decided. The appealing party shall be required to present evidence that supports the party's position on the issues raised by the appeal. Parties to the appeal may present any relevant evidence. However, the hearing officer is charged with ensuring that the record is fully developed to the extent practicable based on the evidence reasonably available at the time of the hearing, whether or not a party is represented. Therefore, the hearing officer should oversee the development of the evidence and participate in the interrogation process to the extent necessary to fully develop the record.

.1 Parties and witnesses shall ordinarily participate by telephone. However, based on the individual circumstances of a case OR IF A PARTY WOULD BE DISADVANTAGED BY TELEPHONE PARTICIPATION, the chief hearing officer or designee shall have the discretion to determine ANOTHER ~~the~~ method of participation AND TO ORDER THE PARTIES TO PARTICIPATE IN THAT MANNER TO ~~that will~~ best achieve the purposes of this rule 11.2.9 ~~and to order the parties to participate in that manner.~~

.2 PARTIES MAY BE REQUIRED TO REGISTER FOR THEIR HEARING PRIOR TO THE SCHEDULED DATE AND TIME OF THE HEARING. REGISTRATION SHALL BE CONSIDERED PART OF THE HEARING PROCESS AND FAILURE TO REGISTER FOR A SCHEDULED HEARING SHALL CONSTITUTE A FAILURE TO APPEAR PURSUANT TO REGULATION 11.2.13.

~~2.3~~ An interested party to a hearing must submit to the hearing officer any documents, subpoenaed documents, and any physical exhibits that can be reproduced that he or she intends to introduce at the hearing. Such materials must be submitted in time to ensure that the hearing officer receives them before the date of the scheduled hearing. Such party must also provide copies of all documents and physical exhibits sent to the hearing officer to any other interested party to the hearing or to that interested party's representative as shown on the hearing notice, in time to ensure the materials are received prior to the date of the scheduled hearing. Failure to timely submit such

materials to the hearing officer, or to timely send the materials to the opposing party or such party's representative may result in their exclusion from the record. However, if a party has made a good faith effort to provide documents or physical exhibits in time to be received prior to the hearing, such materials shall not be excluded due to the failure of the hearing officer, the other interested party, or an interested party's representative to receive the materials. In any appropriate case where documents have been timely sent but not received in advance, an adjournment of the hearing may be permitted by the hearing officer pursuant to rule 11.2.11 unless waived on the record by both parties.

~~3.4~~ **3.4** Hearing Procedure. Prior to taking evidence, the hearing officer shall state the issues and the order in which evidence will be received. The hearing officer also shall inform the parties of any written documents or other tangible materials that have been received and explain the procedure for introducing the materials and offering them into evidence. The sequence of receiving testimony shall be in the hearing officer's discretion. Computer records of the division concerning continued weeks claimed or payment for continued weeks claimed are admissible as evidence and may be filed in the record as evidence without formal identification if relevant to the issues raised by the appeal. The hearing officer also may consider any other relevant division file documents without a formal request or identification. However, parties shall be advised during the hearing of the division records and documents to be considered. All physical materials offered into the record shall be clearly identified and marked. Further, materials admitted shall be expressly received for the record. The hearing officer shall permit the parties to testify on their own behalf and present witnesses, and opposing parties may cross-examine each other and the others' witnesses. The hearing officer shall examine the parties and witnesses as necessary and, after notice to the parties, may hear such additional evidence as deemed necessary. All testimony shall be presented under oath and the hearing shall be timed. At the conclusion of the hearing, the hearing officer shall inform the parties of the time consumed by the hearing and the approximate cost of the preparation of the transcript of the hearing, if any, and shall instruct the parties that a decision will be promptly issued as to the issues brought forth at the hearing. The hearing officer shall also instruct the parties that such decision may be appealed and, if applicable, that the appellant must bear the cost of preparation of a transcript. The sum paid may, ~~at a later date,~~ **AT A LATER DATE** be reimbursed by the panel without interest, if such appeal results in a decision favorable to the appellant. It shall also be stated to the parties that the cost of preparation of the transcript may be waived pursuant to rule 11.2.15.

~~4.5~~ **4.5** New Issues. Parties are entitled to advance notice of the factual issues that may be considered at a hearing. The hearing officer shall not permit an interested party to present factual issues at a hearing that have not been disclosed to the other interested party(ies) in writing, as shown by the claim file. If good cause, as set forth in rule 12.1.8, is found for a party not providing proper notice of the factual issues it intends to present, the hearing officer may adjourn the hearing. If good cause is not found, the

hearing shall proceed as scheduled, and those new factual issues raised shall not be considered. In determining whether there is good cause for permitting a new factual issue, the hearing officer shall give substantial weight to an absence of prejudice to the other interested party and to the overall interests of an accurate and fair resolution. An interested party ~~may~~, at the hearing, **MAY** waive the requirement that ~~it~~ **THEY** be provided with proper notice.

11.2.13 Failure to Appear.

.1 Appealing Party. If the appealing party fails to **REGISTER FOR THEIR HEARING OR FAILS TO** participate in the hearing **AFTER REGISTERING** ~~as directed~~, the appeal shall be dismissed and the decision that was the subject of the appeal shall become final. Written notice that the appeal has been dismissed shall be provided to the interested parties named in the caption. The appealing party may request that the appeal be reinstated and the hearing be rescheduled pursuant to the procedures set forth in part XII of the regulations. The request must be received by the division within twenty calendar days after the date the dismissal notice was mailed by the division. An untimely request that a hearing be rescheduled may be permitted by the division for good cause shown, pursuant to the procedure set forth in part XII of the regulations.

.2 Nonappealing Party. If any other interested party fails to **REGISTER FOR THEIR HEARING OR FAILS TO** participate **IN THE HEARING** ~~as directed for a scheduled hearing~~, and a decision is issued by a hearing officer on the merits of the appeal, the party who failed to participate as directed may request that a new hearing be scheduled either by filing a written request with the panel or filing a written appeal from the hearing officer's decision. The written statement shall include details, pursuant to part XII of the regulations, to establish that he or she had good cause for the failure to participate in the appeal hearing. The request for a new hearing shall be filed with the panel in person, by mail, by facsimile machine, by panel-approved electronic means, or at a public employment office, the central office of the division, the office where the hearing officer is located, or by division-approved electronic means and shall be received by the panel within twenty calendar days after the date mailed on the hearing officer's decision. An untimely request for a new hearing may be permitted by the panel for good cause shown, pursuant to the procedure set forth in part XII of the regulations. If it is determined that the party has shown good cause for the failure to participate, the hearing officer's decision that was issued on the merits of the appeal shall be vacated and a new hearing scheduled forthwith.

ELECTRONIC DELIVERY

1.9 DIVISION OR PANEL COMMUNICATIONS.

The division or panel may request information from an interested party and their authorized representative, if any, by personal delivery, by mail to their last known address as shown in the division's or panel's records, by telephone, by facsimile machine, or by **DIVISION APPROVED** electronic means. Any decision, determination, notice, or statement that conveys protest or appeal rights shall be provided in accordance with articles 70 to 82 of title 8, C.R.S., and these regulations.

7.2.6 Request for Report. The division may request a wage and/or separation report concerning a particular worker using any of the communication methods specified in rule 1.9 for the purpose of confirming a report previously submitted or obtaining information necessary to enable the division to make a determination of benefit rights. Such report shall be furnished to the division ~~in person, by mail, by telephone, or by division-approved electronic means~~ and **EXCEPT THAT THE DIRECTOR, IN THE INTEREST OF THE FAIR AND EFFICIENT ADMINISTRATION OF THE PROGRAM, MAY PERMIT THE REPORT TO BE FURNISHED BY OTHER COMMUNICATION METHODS DESCRIBED IN RULE 1.9.** ~~THE REPORT~~ shall be received by the division within twelve calendar days after the date on which the division requests such information, except that the division may accept information out of time if it determines good cause exists for the untimely action, as referenced in 7.2.8 or 12.1.8. In the event that the requested report is received late but before the initial adjudication of the matter for which the report was requested, there is a presumptive showing of good cause.

CONFORMITY

13.2.9 Responsibilities of the Paying State.

.6 Statement of Benefit Charges.

.1 At the close of each calendar quarter, the paying state shall send each transferring state a statement of benefits charged during such quarter to such state for each combined wage claimant.

.2 Each such charge shall bear the same ratio to the total benefits paid to the combined-wage claimant by the paying state as his or her wages transferred by the transferring state bear to the total wages used in such determination. ~~The computation of such ratio shall be to the nearest full percentage point.~~ **THE PAYING STATE SHALL EXPRESS THE RATIO AS A PERCENTAGE, OF THREE OR MORE DECIMAL PLACES.**

.3 With respect to new claims establishing a benefit year effective on and after

July 1, 1977, the United States shall be charged directly by the paying state in the same manner as provided in regulations 13.2.9.6.1 and 13.2.9.6.2 of this section 13.2 in regard to federal-civilian service and wages and federal-military service and wages assigned or transferred to the paying state and included in combined-wage claims in accordance with the Code of Federal Regulations, 20 C.F.R., parts 609, 614, and 616. ~~With respect to new claims effective before July 1, 1977, prior law shall apply.~~