

2015 USDOL/NAUIAP ROLL CALL

The following questions were asked of the participants:

LOWER AUTHORITY APPEALS: Chief of Appeals; Statutory Changes Affecting UI Appeals, Significant UI Case Law in Past Year; Changes in Management of Workload or Operations.

HIGHER AUTHORITY APPEALS: Chairperson of Board of Review; Are you a party or do you defend in court litigation?; Changes in Management of Workload or Operations.

ALABAMA

Lower Authority Appeals

Chief of Appeals: Venessa Watkins, Director; Steve Trawick, Chief Administrative Hearing Officer. Venessa.Watkins@dir.alabama.gov

Statutory Changes Affecting UI Appeals: No changes for 2014 or for 2015 to date.

Significant UI Case Law in Past Year: No significant UI Case law for 2014 or for 2015 to date.

Higher Authority Appeals

Chairperson of Board of Review: Douglas Moore, Chairman (appointed by Governor)
Are you a party/defend in court litigation? Board is not a party, nor defense counsel.

Changes in management of Workload/Operations: No changes in management Workload and operations remain consistent. (Stephen McCormick, Deputy Attorney General – Stephen.mccormick@labor.alabama.gov).

ALASKA

Lower Authority Appeals

Chief of Appeals: Janice Carran (Janice.carran@alaska.gov)

Statutory Changes Affecting Appeals: No changes for 2014.

Significant UI Case Law in Past Year: The US District Court for Alaska overturned the constitutional ban on same sex marriage which was applied to allow the same sex couple the same rights as an opposite sex couple to leave work to relocate with his or her spouse. [See Commissioner Decision 14-1456.](#)

Higher Authority Appeals

Chairperson of Board of Review: Commissioner of Labor and Workforce Development

Are you a party or do you defend in court litigation? Higher authority is a party.

Changes in Management of Workload or Operations: There were none in 2014.

ARIZONA

Lower Authority Appeals

Chief of Appeals: Arizona has three Presiding ALJ's who each supervise a team of eight ALJ's, each of whom reports directly to the Administrator. One of the teams only conducts non-UI public assistance hearings; the other two teams conduct UI hearings exclusively.

Statutory Changes Affecting Appeals: No changes for 2014.

Significant UI Case Law in Past Year: No significant UI Case law for 2014.

Changes in Management of Workload or Operations: Pete Landsdowne retired as Administrator in September 2014; Marilyn White became Administrator in February 2015. Workload is steadily to slightly diminishing over the last 12 months.

Higher Authority Appeals

Chairperson of Board of Review: Appeals Board Chairman is Gary Blanton, who reports to the Administrator, Marilyn White. (MarilynWhite@azdes.gov) (gblanton@azdes.gov)

Are you a party/defend in court litigation? Neither. The Arizona Attorney General's Office represents the Department in cases before the Court of Appeals; the Board of Review is treated the same as a lower trial court in these cases.

Changes in management of Workload/Operations: There have been a few personnel Changes resulting from slightly reduced staffing levels; workload is steadily to slightly Diminishing over the last 12 months.

Arizona is a member of the WyCA (Wyoming, Colorado, Arizona) UI modernization Consortium, with an anticipated roll-out of an integrated benefit, appeals and tax system.

There will be significant changes in how the higher authority and the public assistance Team will operate as they move into a paperless environment (electronic document management system and a customer-service driven model).

ARKANSAS

Lower Authority Appeals

Chief of Appeals: Brad Collins (Brad.Collins@arkansas.gov)

Statutory Changes Affecting Appeals: Arkansas Code Annotated 11-10-514(b)(2) – drug testing disqualification was amended to not require the passing of a DOT qualified drug test in order to be disqualified from receiving benefits. Arkansas Code Annotated 11-10-502(a) and 11-10-504(a) – Method for calculating benefit rate was changed to 1/26th of average wages in all four quarters of the base period and the maximum benefit amount was reduced from 25 times the weekly benefit amount to 20 times the weekly benefit amount.

Significant UI Case Law in Past Year: In *Saldana v. Director*, 2015 Ark.App.129, the Appeals Tribunal has jurisdiction to address constitutional arguments regarding due process and equal protection.

Changes in Management of Workload or Operations: The Tribunal's management Strategies have not significantly changed during the last 12 months.

Higher Authority Appeals

Chairperson of Board of Review: Sommer Faulkenberry is the Chairman of the Arkansas Board of Review. (Sommer.faulkenberry@arkansas.gov)

Are you a party/defend in court litigation? The Director of the Department of Workforce Services is listed as a party. The Department's Office of General Counsel represents the Department.

Changes in management of Workload/Operations: The Arkansas Board of Review's management strategies have not undergone major changes during the last 12 months.

CALIFORNIA

Lower Authority Appeals (Elena Gonzalez – ElenaG@cuiab.ca.gov)

Higher Authority Appeals (Robert Dresser – Robert.dresser@cuiab.ca.gov)

COLORADO

Lower Authority Appeals

Chief of Appeals: Due to reorganization, Colorado no longer has a Chief of Appeals. Darin Mullen is the hearing unit manager who manages 20 hearing officers and two Hearing officer supervisors (darin.mullen@state.co.us).

Statutory Changes Affecting Appeals: Colorado recently passed legislation increasing the penalty for UI fraud from 50% to 65% of the overpaid benefits. Effective date is unknown at this time.

Changes in Management of Workload or Operations: Colorado is implementing an “Agile Staffing” model in which 1st level adjudicators would be trained to serve as hearing officers during high workload periods and lower authority hearing officers would be asked to adjudicate first level claims during high workload periods in the adjudication unit.

Higher Authority Appeals

Chairperson of Board of Review: The Director of the Industrial Claim Appeals Office is John D. Baird (john.baird@state.co.us).

Are you a party or do you defend in court litigation? The higher authority sometimes defends its decisions in the appellate courts and is usually named a party.

Changes in Management of Workload or Operations: There have been no changes in the management of workload or operations other than ongoing procedural adjustments to the administration of unemployment appeals.

CONNECTICUT

Lower Authority Appeals

Chief of Appeals: Ralph Dorsey (ralph.dorsey@ct.gov)

Statutory Changes Affecting Appeals: There have been no statutory changes in 2014.

Significant UI Case Law in Past Year: There has been no significant court decision in 2014.

Changes in Management of Workload or Operations: Caseload has decreased over 2013. Connecticut is in the process of joining a UI Modernization consortium, consisting of Mississippi, Maine and Rhode Island to replace its legacy system with a server, customer-driven system. Connecticut has developed and recently implemented an automated hearing scheduler that will be showcased at this year’s NAUIAP conference.

Higher Authority Appeals

Chairperson of Board of Review: Lynne Knox (lynne.knox@ct.gov)

Are you a party/defend in court litigation? The Administrator of Connecticut's UC Act is usually the party who defends the agency's decision and is represented by the Attorney General's office. However, the Board of Review has, by statute, the authority to file a motion to intervene in any court proceeding and would be represented by the legal staff at the Board.

Changes in management of Workload/Operations: Connecticut's Board of Review's management strategies have not undergone major changes during the last 12 months. The Board's caseload has significantly decreased and one staff attorney has been reassigned to the Commissioner's legal staff to assist with the prosecution of state FMLA cases.

DELAWARE

Lower Authority Appeals

Chief of Appeals: Andrew Morrison (andrew.morrison@state.de.us)

Statutory Changes Affecting Appeals: There were no significant statutory changes in 2014.

Significant UI Case Law in Past Year: There was no significant UI Case Law in 2014.

Changes in Management of Workload or Operations: Delaware's UIAB Secretary is Monica Baker.

Higher Authority Appeals (Monica Baker – Monica.Baker@state.de.us)

FLORIDA

Lower Authority Appeals (Magnus Hines – Magnus.hines@deo.myflorida.com)

Higher Authority Appeals

Chairperson of Board of Review: The Honorable Frank E. Brown is Chairman.

Are you a party/defend in court litigation? The Florida Reemployment Assistance Appeals Commission issues final orders that are appealable to one of five District Courts of Appeal. By statute, the Commission is an appellee in each case and defends its orders before the appellate tribunal. Amanda Hunter is Deputy General Counsel and Clerk

(Amanda.huner@raac.myflorida.com).

Changes in management of Workload/Operations: Since the appointment of Florida's Current Chairman in July 2013, the Commission has allocated more resources to the Review and preparation of orders in complex cases, and the defense of its orders in court.

GEORGIA

Lower Authority Appeals

Chief of Appeals: C. Renee Williams (Rene.Williams@gdol.ga.gov)

Statutory Changes Affecting Appeals: Effective April 24, 2014, a new Georgia statute exempts the Georgia Department of Labor from the Administrative Procedures Act in conducting benefit and overpayment appeal hearings. This statute also permits the Appeals Division to conduct appeal hearings by telephone, except when the Appeals Division determines that an in person hearing is needed.

Changes in Management of Workload or Operations: Appeals will soon launch a Centralized Appeals Processing (CAP); a pilot project is currently underway. The CAP process entails the Internet filing of appeals and having all initial appeals processed by the UI Appeals Tribunal as opposed to Career Centers located throughout the state.

Higher Authority Appeals (Alice Mitchell – Alice.Mitchell@gdol.ga.gov)

HAWAII

Lower Authority Appeals

Chief of Appeals: Pam Toguchi (Pamela.A.Toguchi@hawaii.gov)

Statutory Changes Affecting Appeals: Statutory changes decreased from 15 to 12 days for the minimum notice for appeal hearings and allows for notices and decisions to be sent By email (if the party self-selects this type of notice).

Changes in Management of Workload or Operations: Appeals have decreased, but not significantly (approximately 4,650 appeals heard in 2014; project 4,200 appeals to be heard in 2015).

Higher Authority Appeals: There is no higher authority in Hawaii.

IDAHO

Lower Authority Appeals

Chief of Appeals: Amy Hohnstein (Amy.Hohnstein@labor.idaho.gov)

Statutory Changes Affecting Appeals: There were no statutory changes affecting UI appeals in 2014.

Significant UI Case Law in Past Year: There was no significant UI Case Law in 2014.

Changes in Management of Workload or Operations: There were no changes in management of workload or operations.

Higher Authority Appeals

Chairperson of Board of Review: R.D. Maynard (Rd.maynarde@iic.idaho.gov)

Are you a party/defend in court litigation? No

Changes in management of Workload/Operations: There are no changes in management of workload or operations.

ILLINOIS

Lower Authority Appeals (Elizabeth.Lindberg@Illinois.gov)

Higher Authority Appeals

Chairperson of Board of Review: Jack L. Calabro, who was appointed by the Governor, is the Chairperson of the Illinois Board of Review. Andrew Fox is the Manager of the Board of the Board (Andrew.Fox@Illinois.gov).

Are you a party/defend in court litigation? The Board of Review is defended in court by the Illinois Attorney General's office. The Board advises the AG's office of its position.

Changes in management of Workload/Operations: The Board moved to a SharePoint System for communication many of its draft decisions and work to/from the Board Members. It also uses this same system to move audio files and Word documents to/from the transcription vendor in applicable cases.

The agency has created the Illinois Benefit Information System called IBIS, which is an entirely electronic system for assigning the work. Scanning of documents and appeals allows the Board to assign work electronically and attorneys/referees at the Board use the Electronic Case Folder to access documents and other evidence in reviewing their cases.

They also use the Smart Record System to review VOIP file recordings. This paperless System is slowly, but steadily, taking over the percentage of reviewed cases.

INDIANA

Lower Authority Appeals

Chief of Appeals: Sabrina Rahn (srahn@dwd.IN.gov)

Statutory Changes Affecting Appeals: Elimination of Burden of Proof (July 2014); Garnishment/Withholding abilities for fraud cases (July 2015).

Changes in Management of Workload or Operations: UIM system was launched in January, 2014, which connects UI benefits, Tax, BPC, Appeals, and RB. The Division will soon have two ALJ's who will exclusively hear fraud and garnishment appeals.

Higher Authority Appeals

Chairperson of Board of Review: Steve Bier (sbier@dwd.in.gov)

IOWA

Lower Authority Appeals (Devon M. Lewis – devon.lewis@iwd.iowa.gov) and Teresa Hillary (Teresa.hillary@iwd.iowa.gov)

KANSAS

Lower Authority Appeals

Chief of Appeals: There is no Chief of Appeals in Kansas. (Justin McFarland is Labor Market Information Services Director/Deputy General Counsel; justin.mcfarland@dol.ks.gov).

Statutory Changes Affecting Appeals: There were no statutory changes affecting UI Appeals in 2014.

Significant UI Case Law in Past Year: Tax – there was a 15% reduction for positive balance employers and the entering and expanding employer provision of 2014 HB 2576; Reauthorizing short-term compensation (2014SB 372); sharing Confidential information (2014 SB 371).

Changes in Management of Workload or Operations: The Kansas UI Director now

Oversees the lower authority appeals directly.

Higher Authority Appeals (Cecelia Resnick – Cecelia.resnik@dol.ks.gov)

Are you a party or do you defend in court litigation? Yes.

Changes in Management of Workload or Operations: None.

KENTUCKY

Lower Authority Appeals (Lisa Cochran – Lisag.cochran@ky.gov)

Higher Authority Appeals (Greg Higgins, Attorney Manager/Assistant Counsel, UI Commission; greg.higgins@ky.gov)

Are you a party or do you defend in court litigation? Pursuant to KRS 341.450, any party aggrieved by the Commission's decision may appeal to the Circuit County in the county where the claimant was employed. The appeal is initiated by filing a civil complaint against the Commission (in which Commission becomes a party) and shall also make any other party to the proceeding before the Commission a defendant. The Commission is represented by the agency's legal department.

Changes in Management of Workload or Operations: Due to a funding shortfall, the Commission has experienced a shortage in clerical staffing, which has affected its efficiency in developing appeals for review. To the extent possible, the management of workload remains unchanged. Cases are developed and distributed to the Commission's staff attorneys and senior referees for review and drafting of proposed Orders. The three-member Commission reviews the appeal and proposed Order for adoption or revision. The size of the Commission's caseload varies based on the efficiency of the lower authority in releasing its decisions. The Lower Authority has also experienced personnel shortages in both clerical and Referee positions.

LOUISIANA

Lower Authority Appeals

Chief of Appeals: Shaydra J. Guillory (SGuillory@lw.la.gov)

Statutory Changes Affecting UI Appeals: There were no significant changes in 2014.

Significant UI Case Law in Past Year: There was no significant UI case law in 2014.

Changes in Management of Workload or Operations: None.

Higher Authority Appeals

Chairperson of Board of Review: Ronald Falgout; Tiffany C. Giles is Board of Review Manager (tgiles@lwc.la.gov).

Are you a party or do you defend in court litigation? The Board of Review is a party, but the agency's legal department defends any litigation.

Changes in Management of Workload or Operations: N/A

MAINE

Lower Authority Appeals

Chief of Appeals: Liz Wyman, Chief, Division of Administrative Hearings, Maine Bureau of Unemployment Compensation (liz.wyman@main.gov)

Statutory Changes Affecting UI Appeals: There was no legislation passed during 2014 that affected the Appeals Division.

Significant UI Case Law in Past Year: There have not been any decision issued by the Maine Supreme Judicial Court on unemployment cases. There have been several Superior Court decisions, but they do not have precedential value.

Changes in Management of Workload or Operations: Maine's higher authority is no longer holding hearings on a regular basis and instead remand the case to the lower authority for further evidence when necessary. This has resulted in the lower authority allotting more time for its hearings. As a result of a Blue Ribbon Commission report that was issued in 2013, the lower authority has instituted evidentiary practices that are more inclusive, such as automatically admitting administrative documents, allowing additional witnesses and granting postponements for the parties to bring first-hand witnesses who were not originally available.

Higher Authority Appeals (Jennifer Duddy – Jennifer.Duddy@main.gov)

MARYLAND

Lower Authority Appeals

Chief of Appeals: Judy Grier Smylie, Esq., Director/Chief Hearing Examiner (judy.smylie@maryland.gov)

Significant UI Case Law in Past Year: There were no significant UI law changes in 2014.

Changes in Management of Workload or Operations: Because of a steep decline in workload over the past year, the lower authority is scaling back its operations.

Higher Authority Appeals (Donna Watts-Lamont – Dwatts-lamont@dllr.state.md.us)

MASSACHUSETTS

Lower Authority Appeals

Chief of Appeals: Wendy Savary is Director of Hearings (WSavary@detma.org)

Statutory Changes Affecting UI Appeals: There were no changes in 2014

Significant UI Case Law in Past Year: There was no significant UI case law in 2014.

Changes in Management of Workload or Operations: The Hearings Department completed a pilot on auto-scheduling and added Job Service Representative positions to each region.

Higher Authority Appeals

Chairperson of Board of Review: Paul T. Fitzgerald (pfitzgerald@detma.org)

Are you a party or do you defend in court litigation? The Board is always a named party in any court appeal; however, it does not represent itself in defense of its decisions. The Massachusetts Department of Unemployment Assistance (DUA), which is also a named party, conducts any litigation at the District Court level. At the appellate level, both the Board and DUAB are represented by the Massachusetts Attorney General's office.

Changes in Management of Workload or Operations: The most significant change to the management of the Board's workload operations is that it now reviews and processes appeals on line, as part of Massachusetts UI-Online System.

MICHIGAN

Lower Authority Appeals

Chief of Appeals: Michigan has a Division Director, Julie McMurtry. Contact is Christopher Seppanen (SeppanenC@michigan.gov).

Statutory Changes Affecting UI Appeals: There have not been any recent statutory changes.

Significant UI Case Law in Past Year: In *Braska v. Challenge Mfg. Co.*, 307 Mich App 340 (2014), the Court of Appeals held that Michigan's Medical Marijuana Act preempted Michigan's disqualification provision, MCL 421.29(1)(m), which disqualifies an individual from receiving unemployment compensation benefits if he or she tests positive on a drug test, and that the denial of benefits constituted an improper penalty for the medical use of marijuana.

Changes in Management of Workload or Operations: In October 2013, the agency implemented a new computer system (Michigan Integrated Data Automated System – MiDAS), which resulted in many interface challenges. At the end of 2013, the Division's backlog of appeals was 2,593. As of May 11, 2014, the backlog of appeals is 26,486. The Division (MAHS) has hired an additional 22 limited-term ALJ's along with support staff to address the backlog of appeals. MAHS is currently piloting a workflow process system which allows for faster processing and closure of hearing decisions and orders. MAHS is also pursuing an electronic data management system.

Higher Authority Appeals (George Wyatt – wyattg@michigan.gov)

MINNESOTA

Lower Authority Appeals

Chief of Appeals: Craig Gustafson (craig.gustafson@state.mn.us)

Statutory Changes Affecting UI Appeals: There has been expanded eligibility for victims of sexual assault and stalking.

Significant UI Case Law: There have been several cases in the area of worker status.

Changes in management of Workload or Operations: There is a new case management system for the Court of Appeal cases.

Higher Authority Appeals: There is no higher authority in Minnesota.

MISSISSIPPI

Lower Authority Appeals

Chief of Appeals: Gary L. Holmes, Jr. (gholmes@mdes.ms.gov)

Statutory Changes Affecting Appeals: There were none in 2014.

Significant UI Case Law in Past Year: There was none in 2014.

Changes in Management of Workload or Operations: It has not made any changes in

workload or operations.

Higher Authority Appeals

Chairperson of Board of Review: John W. Garrett, Jr. (jgarrett@mdes.ms.gov)

Are you a party or do you defend in court litigation? The Board will appear and represent the agency's position, but it is not a party.

Changes in Management of Workload or Operations: The Board has not made any changes in management of workload or operations.

MISSOURI

Lower Authority Appeals

Chief of Appeals: Ron Miller (Ron.Miller@dolir.mo.gov)

Statutory Changes Affecting Appeals: In 2014, the Missouri legislature amended the definitions of misconduct and "good cause" for voluntarily leaving a job. The misconduct definition (like Florida's definition) provides for a knowing disregard of the employer's interest; carelessness or negligence; absenteeism or tardiness; a knowing violation of state standard or regulation which would cause employer to be sanctioned or lose its license; and a violation of a rule, but claimant has burden to show he or she did not know the rule or could not reasonable know the rule, the rule is not lawful or fairly or consistently enforced.

Good cause for leaving is defined as: "only that cause which would compel a reasonable employee to cease working or which would require separation from work due to illness or disability."

Significant UI Case Law in Past Year: There was no significant UI case law in 2014.

Changes in Management of Workload or Operations: Starting in March, 2015, the lower authority starting using Clear2There. Clear2There was utilized to conference parties into the hearings rather than have Referees call the parties.

Higher Authority Appeals (Pamela Hoffman – Pamela.Hofmann@labor.mo.gov)

MONTANA

Lower Authority Appeals (David Scrimm – Dscrimm@mt.gov)

Higher Authority Appeals

Chairperson of Board of Review: Brian Boland. Other Board members are John Hart (who is an attorney) and Jerry Driscoll. The Board's Alternate Board Member is Sara Novak. Contact is Mary Buswell (mbuswell@mt.gov)

Are you a party or do you defend in court litigation? The Board is not normally listed as a party, but may be. Normally, the Department of Labor and Industry is noticed in litigation cases. A department attorney will participate on behalf of the department. The attorney who represents the department is also the attorney who acts as counsel to the board during the board's monthly meetings.

Changes in Management of Workload or Operations: Other than a reduction in the number of cases since the recession ended, there are no significant changes in the operation of the higher authority. As of July 1, 2015, the name of the Board will change from the Board of Labor Appeals to the Unemployment Insurance Appeal Board. This change was to avoid confusion with the agency Board which deals with collective bargaining matters.

NEBRASKA

Lower Authority Appeals

Chief of Appeals: Steven Chase, Chief Administrative Hearing Officer/Judge (steven.chase@nebraska.gov)

Statutory Changes Affecting UI Appeals: No major changes in statutes for 2015. The Nebraska Administrative Code was revised to require the appealing party to proceed first in an appeal notwithstanding the burden of proof. There was also a statutory change to the work search requirements to require claimants to record each week's work search effort in an electronic web application maintained by the department. The claimant's failure to comply with these procedures will be considered a failure to report as directed, and result in a claimant's ineligibility for that week.

Significant UI Case Law in Past Year: The last Supreme Court case involving UI law was in 2013 and held that a county attorney's position did not meet the elements of a major, non-tenured policymaking or advisory position and thus the wages were not exempt. There were a number of significant lower court decisions on burden of proof and weekly work search efforts.

Changes in Management of Workload or Operations: John Albin, who was formerly a hearing officer, is now a Commissioner. Ron Joyce's position has been replaced by Evan Littrell. Former ALJ Jim Goodding (who attended the NAUIAP conference in 2014 has been on a leave of absence since November, 2014).

Higher Authority Appeals: There is no higher authority in Nebraska.

NEVADA

Lower Authority Appeals

Chief of Appeals: Craig Grossman (chgrossman@nvdetr.org)

Statutory Changes Affecting UI Appeals: Nevada is currently in its biennial legislative session. The session only meets on odd years for 120 days. Since 2014, there have been no major statutory changes affecting UI appeals.

Significant UI Case Law in Past Year: There was no significant case law in 2014. There are pending cases before the court involving incarcerated workers who were discharged for failure/inability to report to work. There is another case involving a wildcat strike (not sanctioned by the union), whose members were discharged because there was a no-strike provision in their new collective bargaining agreement (CBA). The members are arguing that the CBA should be invalidated as it was not ratified by a member vote and thus the strike was protected under the NLRA.

Changes in Management of Workload or Operations: Appeals had a modernization of its computer system that allows for indexed images, intelligent work flow, document management and transfer, and real time accessibility to information. There have been some issues with system performance and data conversion.

Higher Authority Appeals

Chairperson of Board of Review: Katie Johnson. Sean Conklin is the Manager of the Board (sbconklin@nvdetr.org)

Are you a party or do you defend in court litigation? Yes

NEW HAMPSHIRE

Lower Authority Appeals

Chief of Appeals: Erika Randmere (Erika.Randmere@nhes.nh.gov)

Statutory Changes Affecting Appeals: There were no changes in 2014.

Significant UI Case Law in Past Year: *In the Appeal of Niadni, Inc. d/b/a Indian Head Resort* (2014), the court held that, "if an enterprise undertakes an activity not as an isolated instance but as a regular or continuous practice, the activity will constitute part of the enterprise's usual course of business irrespective of its substantiality in relation to the other activities engaged in by the enterprise."

The New Hampshire Supreme Court declined to hear a case on employer successorship brought by a “free-state” advocate who claims to not recognize the Maine’s authority to administer employer UI taxes. In *Wayne H. Kassotis v. Town of Fitzwilliam*, the NH Supreme Court held that a dismissal is not the same as a contract non-renewal.

Changes in Management of Workload or Operations: The NHES Appeal Tribunal Unit has continually modified its processes in response to workload demands. New Hampshire addresses late appeal or hearing re-scheduling requests outside the context of an appeal hearing. Use of electronic files for such requests allows remote hearing officers to assist with these requests as workload permits.

Claimants have the option to receive an automated hearing reminder, which reduces the instances of missed hearings. The department now issues appeal decision through the claims processing system, rather than through word processing, which allows for consistent formatting, easy delivery to electronic correspondence in-boxes (saving on mailing costs), and more transparent tracking of workload.

Appeal hearing officers have been assigned hearings on compromises of overpaid benefits and contributions due. NHES Appeals continues to cross-train support staff to have critical work assigned as needed.

Higher Authority Appeals

Chairperson of Board of Review: Commissioner George Copadis is the second level of appeal for benefit determinations. General Counsel Maria Dalterio may administer this level on behalf of the Commissioner. The Appellate Board is the level above the Commissioner. James E. Townsend is the Chairman and Thomas P. Mullins is the Vice Chairman of the Appellate Board. Contact is Colleen.S.O'Neill@nhes.nh.gov.

Are you a party or do you defend in court litigation? The department is a party beginning with appeals to the Appellate Board. The department may participate in court litigation.

Changes in Management of Workload or Operations: None.

NEW JERSEY

Lower Authority Appeals

Chief of Appeals: This position is vacant. Kathleen Wardell, Director of the Office of Benefit Appeals covers the duties that the Chief of Appeals used to handle. (kwardell@dol.state.nj.us)

Statutory Changes Affecting UI Appeals: The statutory time period for filing an

appeal to the Higher Authority (Board of Review) from a Lower Authority (Appeals Tribunal) was increased from 10 to 20 days. An appeal to the Appeal Tribunal from a Deputy's determination remains 10 days. The Governor recently signed a bill that amends the voluntary leaving provision.

Significant UI Case Law in Past Year: A new level of misconduct, which distinguishes between simple and severe misconduct, has been added to the statute. As amended, the statute provides for an eight-week period of disqualification for simple misconduct and an indefinite period of disqualification (which can be tolled) for severe misconduct. In the *Silver* case, the New Jersey Superior Court further defined what constitutes simple and severe misconduct.

Changes in Management of Workload or Operations: Changes were made in 2012, which placed the Appeals Tribunal and Board of Review under the common management of the Director of Benefit Appeals. In addition, management was streamlined and several layers of management were removed. A case management system was also implemented in later 2013. This new system allows for more efficient processing of appeals as well as much more extensive reports and analytics.

The Appeal Tribunal had been placed "At-Risk" by USDOL in July or August 2012. The Tribunal has not received official confirmation that it has been removed from the "At-Risk" designation; however, the Tribunal has met the criteria to be removed. For the quarter ending September 30, 2014, the Tribunal met time lapse standards for average age and 30 days cases. The Tribunal missed the 45-day standard as it was at 78.5% for 45 days. Beginning with the quarter ending December 31, 2014, the Tribunal well exceeded all of the federal time lapse standards.

Higher Authority Appeals

Chairperson of Board of Review: Joseph Sieber (Joseph.Sieber@dol.state.nj.us)

Are you a party or do you defend in court litigation? The Board is defended by the Attorney General's Office before the Appellate Division.

Changes in Management of Workload or Operations: Same as listed for the Lower Authority.

NEW MEXICO

Lower Authority Appeals

Chief of Appeals: Reba Blackwell

Changes in Management of Workload or Operations: Department of Workforce Solutions Appeal Tribunal Automation Project: This project was rolled out in three planned

phases (12/18/14; 2/27/15; 5/7/15). Phase 1 automates many of the Tribunal's intake functions; requests are entered into the department's automated database, placed in queues, and generated as work items for administrative support personnel. This system eliminates a number of manual hand-offs, decreases the risk of erroneous routing and delayed processing, and generally increases the Tribunal's intake capabilities.

Although Phase 1 launched successfully, there were lessons learned that were training based; some arose out of technical issues that were addressed post-launch and some were the natural result of new ways of doing business. Phase 2 was also successfully launched and will automate several high volume docketing functions, which includes the automated docketing and scheduling of hearings. When a party files an appeal electronically, the user is given the choice of available hearing dates and the hearing will be automatically scheduled and the hearing notice issued. Phase 3 includes some specialty functions that affected high volume workload, including the ability of parties to electronically submit documents and exhibits into the case folders. Other features include new reporting queues that enable management to review pending hearings and cases that have been heard, but are undecided. The process to re-open cases was also automated and simplified.

The Tribunal believed it was important to accept the short-term impact on timeliness to realize the long-term benefits that this automated system will bring. The new system features, coupled with the business changes made necessary by those features, reduced the Tribunal's sensitivity to fluctuations in staffing. The Tribunal is also able to streamline the hearing process in eliminating the paper files folders, thereby allowing the ALJ's to conduct their hearings with an electronic appeal case folder that contains all the required hearing documentation.

Higher Authority Appeals (Richard Branch - Richard.branch@state.nm.us)

NEW YORK

Lower Authority Appeals

Chief of Appeals: Jayson S. Myers (Jayson.Myers@labor.ny.gov)

Statutory Changes Affecting UI Appeals: There were none in 2014.

Changes in Management of Workload or Operations: There were none in 2014.

Higher Authority Appeals

Chairperson of Board of Review: Geraldine A. Reilly (contact is Leonard D. Polletta – Leonard.Polletta@labor.ny.gov)

Are you a party or do you defend in court litigation? No

Significant UI Case Law in Past Year: Appeal Board No. 577489: A claimant who performs unpaid volunteer services is not ineligible based on lack of total unemployment even though he ultimately obtained employment with the employer with whom he volunteered. Appeal Board No. 574492: A claimant who refuses to sign a warning does not commit misconduct when the warning contains a space for comments but lacks any language indicating that a signature signifies an acknowledgment of receipt only. The prior case law held that one or the other was sufficient.

NORTH CAROLINA

Lower Authority Appeals

Chief of Appeals: Jeffrey T. Smith (jeff.smith@nccommerce.com)

Statutory Changes Affecting UI Appeals: No significant changes in 2014.

Significant UI Case Law in Past Year: No significant case law in 2014.

Changes in Management of Workload or Operations: No significant changes in management of workload or operations in 2014.

Higher Authority Appeals

Chairperson of Board of Review: Jeanette Doran; General Counsel to the Board is Jason J. Kaus (jason.kaus@nccommerce.com)

Are you a party or do you defend in court litigation? Yes, the Division is a party to appeals from decisions of the Board of Review filed in state court, and the Division's staff represents the Division in such matters.

Changes in Management of Workload or Operations: Other than the appointment of a new General Counsel to the Board, there have been no significant changes in management of workload or operations in 2014.

NORTH DAKOTA

Lower Authority Appeals

Chief of Appeals: Thomas Hulm, Appeals Manager (tthulm@nd.gov)

Statutory Changes Affecting UI Appeals: There were none in 2014.

Significant UI Case Law in Past Year: There was none in 2014.

Changes in Management of Workload or Operations: The lower authority is operating with two additional, full-time temporary referees.

Higher Authority Appeals

Chairperson of Board of Review: Cheri Giesen, Executive Director, Job Service North Dakota. Contact is Darren Brostrom – dbrostro@nd.gov.

Are you a party or do you defend in court litigation? No

Changes in Management of Workload or Operations: There were no changes in 2014.

OHIO

Lower Authority Appeals

Chief of Appeals: Blaine Brown (blaine.brown@jsf.ohio.gov)

Statutory Changes Affecting UI Appeals: There were no changes in 2014.

Significant UI Case Law in Past Year: There was none in 2014.

Changes in Management of Workload or Operations: There were no changes in 2014.

Higher Authority Appeals

Chairperson of Board of Review: Gregory Gantt is the Chairperson of the Review Commission. Kathryn Todd is the contact – Kathryn.todd@jfs.ohio.gov.

Are you a party or do you defend in court litigation? No, the lower agency is the party and defends in court litigation with the assistance of the Ohio Attorney General's Office.

Changes in Management of Workload or Operations: There were none in 2014.

OKLAHOMA

Lower Authority Appeals

Chief of Appeals: Karl Jahnke is the Director of Appeals. (Karl.Jahnke@oesc.state.ok.us)

Statutory Changes Affecting UI Appeals: Title 40, Section 2-210: Minor changes made to this compelling family circumstances quit provision which now reads "dependent" rather

than “minor children.” Title 40, Section 2-406: Amendments to the misconduct statute in 2013 and 2014 (11/1/14) contain an enumerated list of actions considered misconduct. There have not been any court rulings on the amended statute. Title 40, Section 2-406.2: Effective November 1, 2014, there must be three-party review of at least 5% of the lower Authority’s misconduct cases. This review is being done by the Director of Appeals and two Hearing Officers III’s (Supervisors) by using the ETA 382 standards. Title 40, Section 2-503: Effective November 1, 2014, employer who can show good cause for filing a protest beyond the ten-day time period will be considered interested parties to a claim. Good cause is defined as circumstances beyond the control of the party.

Significant UI Case Law in Past Year: There was none.

Changes in Management of Workload or Operations: The lower authority added Hearing Officer III’s, who supervise Hearing Officers and assist in the statutorily required review of 5% of misconduct cases. There has been a fluctuating caseload, reflecting the relatively good state economy balanced by employment losses due to falling oil prices. Chief Hearing Officer Christopher Tyler left the Appeal Tribunal in January, 2015, and has been replaced internally by Deborah Goodwin. Karl Jahnke is retiring as Director of Appeals effective July 1, 2015, and will be replaced internally by Clyde Stevens. HAPPY RETIREMENT KARL AND CONGRATULATIONS!!

Higher Authority Appeals

Chairperson of Board of Review: Nicole Bell; Director of the Industrial Claim Appeals Office is John D. Baird. Susie.kosek@oesc.state.ok.us is the contact.

Are you a party or do you defend in court litigation? The Board sometimes defends its decisions in the appellate courts and is usually named as a party. The Board has to be included as a party in cases that are appealed to District Court, but the Board members do not present the defense in court litigation.

Changes in Management of Workload or Operations: There are no changes in management of workload or operations other than ongoing procedural adjustments to the administration of unemployment appeals.

OREGON

Lower Authority Appeals

Chief of Appeals: Gary Tyler is the Chief Administrative Law Judge.
(Gary.L.Tyler@oregon.gov)

Statutory Changes Affecting UI Appeals: On May 14, 2015, Governor Brown signed HB 2439A, which allows the Oregon Employment Department to issue dismissals of hearing requests if: 1) the request for hearing is withdrawn by the requesting party;

2) the issues are resolved by cancellation or amendment of the decision that is the subject of the hearing request; 3) the request for hearing is filed prior to the date of the written determination that is the subject of the request; 4) the request for hearing is made by a person who is not entitled to a hearing or is not the authorized representative of a party who is entitled to a hearing.

Significant UI Case Law in Past Year: In *Leung v. Employment Department*, November 13, 2014, the claimant, a native Cantonese speaker, made a late request for hearing. The Employment Appeals Board affirmed the ALJ's denial of the late request. The Court held that the Department incorrectly interpreted its own rule regarding limited English proficient individuals, and that the rule instead requires the Department to provide interpretive services upon gaining knowledge of the customer's need for language assistance. This knowledge can come from the customer's request or by the ALJ's or Department's observing a customer's limited English proficiency.

Oregon became the third state to legalize the recreational use of marijuana with the passage of Ballot Measure 91 in November 2014. The Oregon Liquor Control Commission has primary oversight and authority to regulate and license marijuana businesses.

Changes in Management of Workload or Operations: The UI program of the Oregon Office of Administrative Hearings has completed its transition from a paper file based system to an electronic case management system accessed through a web-based application. Highlights of this system include access to cases from any computer with a secure network connection, a document management application, order generation through templates, and quick and efficient assignment (and reassignment) of cases.

Higher Authority Appeals

Chairperson of Board of Review: Susan Rossiter is Chairperson of Oregon's Board of Review. (Susan.rossiter@oregon.gov). J. Sara Dean Cromwell is a Member of the Board (sara.d.cromwell@oregon.gov).

Are you a party or do you defend in court litigation? No

Changes in Management of Workload or Operations: During the current biennium, Oregon EAB implement new case management software that has revolutionized workload management, reduced paper consumption and introduced significant operational efficiencies.

PENNSYLVANIA

Lower Authority Appeals

Chief of Appeals: Randall Brandes, UC Appeal System Administrator (rbrandes@pa.gov)

Statutory Changes Affecting UI Appeals: There were several statutory changes to benefit charging and earned wages; severance payments are now deductible; requires claimants to register with job service within 30 days of claim filing; froze the maximum benefit rate until 2019; expanded the agency's ability to conduct telephone hearings.

Significant UI Case Law in Past Year: The Pennsylvania Commonwealth Court issued several rulings in the following areas: 1) Voluntary Leaving cases - Affirmed benefit grant under the voluntary layoff proviso of Section 402(b) of the UC Law to claimant who resigned and accepted a severance package offered by the employer as part of a general workforce restructuring; Affirmed benefit denial to a claimant who quit after learning that he would no longer have access to the company vehicle, EZPass and fuel for commuting purposes. The court stated that even under a substantial unilateral change analysis, denial was warranted because claimant had not pursued other alternatives to quitting; Affirmed a benefit denial after the claimant quit rather than accept a demotion that employer offered because claimant had failed to obtain the nursing certification required for her to continue working as a home health aide; the court held that claimant did not have compelling and necessitous reason to quit rather than accept a justified demotion; 2) Willful Misconduct Cases - Reversed benefit denial for fighting in the workplace; court held that, even though fighting is beneath the standard that an employer has a right to expect from an employee, it can be justified if there is "a reasonable fear of imminent bodily harm"; court noted that, even though claimant could have retreated in response to co-worker's shove, his reaction was an instantaneous and reflexive reaction to a physical assault; Applied "totality of the circumstances" test to determine whether a particular statement violated a policy against workplace threats; affirmed benefit denial when a claimant told a supervisor that he was frustrated with a co-worker and that, if he saw her, he would likely hurt her; Reversed benefit denial after claimant was discharged for insubordination upon sending a sarcastic email to upper management about his supervisor. Claimant's email was in the nature of a "whistleblower" communication, and could be considered "de minimis" in the absence of a specific policy against sarcasm.

Changes in Management of Workload or Operations: The UC Board implemented the following changes in 2014: 1) Implemented a system for first level of appeals received and processed by the UC Service Center to be scanned and delivered to the appropriate Appeal Referee office by email rather than mailed by USPS mail, thus saving postage costs and delivery time; 2) Implemented the use of Dragon voice recognition software for use by the Appeals Referees in the initial preparation of decisions as a method to reduce time required for clerical and Referee review of decisions. Clerk typist adds boilerplate and formats final decision, updates data in electronic records and mails decision to the parties; 3) Implemented a centralized mailing process as a pilot in one office. Clerk typist has the option to select the central mail function for printing and mailing of decisions in central office mailroom. This process save clerical time and postage costs.

Higher Authority Appeals

Chairperson of Board of Review: John Poprick, Chairman (jpoprik@pa.gov)

Are you a party or do you defend in court litigation? The UC Board of Review is a party to unemployment compensation cases appealed to court and does defend its decision in these cases.

PUERTO RICO

Lower Authority Appeals (Wanda Torres-Valazquez – WTORRES@trabajo.pr.gov)

Higher Authority Appeals (Maria Hidalgo Ortiz – MHIDALGO@trabajo.pr.gov)

RHODE ISLAND

Lower Authority Appeals (Raymond Maccarone, Jr. – Raymond.maccarone@dlt.ri.gov)

Higher Authority Appeals (Christopher Fierro – Christopher.Fierro@dlt.ri.gov)

SOUTH CAROLINA

Lower Authority Appeals

Chief of Appeals: Romi Robinson (RYRobinson@dew.sc.gov)

Statutory Changes Affecting UI Appeals: There were no changes in 2014.

Significant UI Case Law in Past Year: There was no significant UI case law in 2014.

Changes in Management of Workload or Operations: N/A

Higher Authority Appeals

Chairperson of the Board of Review: Tim Dangerfield (tdangerfield@dew.sc.gov)

Are you a party or do you defend in court litigation? Trey McLeod represents the agency in court appeals. (TMcLeod@dew.sc.gov)

Changes in Management of Workload or Operations: N/A

SOUTH DAKOTA

Lower Authority Appeals

Chief of Appeals: James Marsh, Director, Division of Labor Management, SD Dept. of

Labor and Regulation (DLR) (James.Marsh@state.sd.us)

Statutory Changes Affecting UI Appeals: There were none in 2014.

Significant UI Case Law in Past Year: There was none in 2014.

Changes in Management of Workload or Operations: There were no changes in 2014.

Higher Authority Appeals

Chairperson of Board of Review: Marcia Hultman is the Secretary, Department of Labor and Regulation. (Marcia.hultman@state.sd.us)

Changes in Management of Workload or Operations: Tom Hart is now Deputy Secretary for DLR, and supervises Director Marsh.

TENNESSEE

Lower Authority Appeals

Chief of Appeals: Jim Layman is the Director of the Unemployment Appeals Tribunal (Jim.layman@tn.gov)

Statutory Changes Affecting UI Appeals: See 2013 Tenn. SB 783. There have been amendments to the base period, misconduct definitions, and fraud overpayment provision.

The misconduct definition has been amended to include any conduct constituting a criminal offense for which the claimant has been convicted or charged that involves dishonesty arising out of the claimant's employment or was committed while the claimant was acting within the scope of employment. Any overpayment created as a result of a reconsideration because a claimant is subsequently convicted of a misdemeanor or felony that cause the separation from the employer shall be determined to be fraud and the administrator shall not waive repayment of the overpaid amounts.

Significant UI Case Law in the Past Year: *Barner v. Phillips*, 2014 Tenn. Appl. LEXIS 265; 2014 WL 1852563 (court addressed procedural due process issues concerning the issues properly listed on the hearing notice and the right to counsel); *Sparkman v. Phillips*, 2014 Tenn. App., LEXIS 399; 2014 WL 3058443 (Court upheld denial of benefits due to refusal to take an alcohol test where claimant was aware of employer policy, had received prior warning regarding this policy, and coworkers perceived claimant smelled of alcohol); *Practical Ventures, LLC v. James Neely, Commissioner of the Tennessee Department of Labor*, 2014 Tenn. App. LEXIS 348 (Court held that the doctrine of constructive discharge is inapplicable to proceedings under the UC Act); *Newman v. Karla Davis, Commissioner of Tennessee Department of Labor*, 2014 Tenn. App. LEXIS 58 (Court upheld Commissioner's decision that the voluntary quit statute

required the claimant to be able to perform her job duties at the time she applied for benefits. The claimant was disqualified because she failed to return to work within a reasonable time after being released and able to perform her job duties as stated by her physicians, or because she was unable to perform her job duties without restriction at the time she applied for benefits.)

Higher Authority Appeals

Chairperson of Board of Review: Tennessee's Board of Review was abolished in 2011. Its higher authority consists of four Commissioner's Designees who are all Tennessee licensed attorneys and are part of the Department's legal division. Jane Warren is the supervisor/lead Commissioner's Designee. (Jane.warren@tn.gov)

Are you a party or do you defend in court litigation? The Commissioner is a party to any court litigation. The Department's Assistant General Counsel defends the Commissioner's Designees' decisions in Chancery Court. If the case is appealed to the Court of Appeals or Supreme Court, the Attorney General's office handles the case.

Changes in Management of Workload or Operations: There are none in 2014.

TEXAS

Lower Authority Appeals (Dan Ahfield – danny.ahfield@twc.state.tx.us)

Higher Authority Appeals (Sherri Miller – Sherri.miller@twc.state.tx.us)

UTAH

Lower Authority Appeals

Chief of Appeals: Kathy Bounous is Director of the Division of Adjudication/Appeals. Contact is John Davenport – johndavenport@utah.gov.

Statutory Changes Affecting UI Appeals: There were no changes passed in 2014. There was a proposal to move responsibility for the administration of the appeal processes from the individual departments in the state to a central appeals office under the direction of the Department of Administrative Services. The proposal was tabled for further study over the next year.

Significant UI Case Law in Past Year: Sharing of information on Utah employee status Decisions with the federal DOL.

Changes in Management of Workload or Operations: There were no changes in 2014.

Higher Authority Appeals

Chairperson of Board of Review: Gabe Hooley (ghooley@utah.gov)

Are you a party or do you defend in court litigation? Attorneys who work for the Workforce Appeals Board defend the Board's decisions when they are appealed to the Utah Court of Appeals.

Changes in Management of Workload or Operations: There have been no changes in 2014. There will be a new Chairperson appointed because Ms. Hale's term has ended and she has moved out of the state.

VERMONT

Lower Authority Appeals

Chief of Appeals: Mark Horowitz is the Chief Administrative Law. Contact is Jennifer Davis – Jennifer.Davis@state.vt.us.

Statutory Changes Affecting UI Appeals: There were no changes in 2014.

Significant UI Case Law in Past Year: There was none in 2014.

Changes in Management of Workload or Operations: Mark Horowitz was appointed Chief ALJ in February, 2015.

Higher Authority Appeals

Chairperson of Board of Review: The Vermont Board is a three-member panel chaired by the Commissioner of Labor. The other two members are appointed by the Governor. Dirk Anderson is General Counsel and serves as a hearing officer to the Board. (dirk.anderson@state.vt.us)

Are you a party or do you defend in court litigation? Attorney Anderson generally Appears as an appellee on behalf of the Department on appeal, at the Commissioner's discretion.

Changes in Management of Workload or Operations: There are no changes in 2014.

VIRGIN ISLANDS

Lower Authority Appeals (June Austin – jaustin@vidol.gov)

Higher Authority Appeals: There is no higher authority in the Virgin Islands.

VIRGINIA

Lower Authority Appeals

Chief of Appeals: Heidi E. Young is the Chief Appeals Examiner/Manager of Lower Authority appeals. (Heidi.Young@vec.virginia.com)

Statutory Changes Affecting UI Appeals: Virginia has enacted legislation to: 1) pay Benefits to military trailing spouses if certain conditions are met – shifts liability to the pool; 2) impose a penalty against employers for non-participation/failure to respond to requests for information; 3) establish a rebuttal presumption that an individual voluntarily left the job if the individual was a graduate student whose employment commenced and ended between spring and fall semesters of his academic program and he returned to his academic program following the separation; 4) impose a 15% fraud penalty and removed requirement that fraud overpayment must be repaid before a claimant could regain eligibility; instead, allows for offset against future benefits.

Significant UI Case Law in Past Year: There was none in 2014.

Changes in Management of Workload or Operations: There was a reduction in staff due to a decrease in UI grant funding, along with a decrease in the number of appeals.

Higher Authority Appeals

Chairperson of Board of Review: Virginia uses paid examiners, hearing officers, or ALJ's, rather than a Board of Review. Lisa J. Rowley is Chief Administrative Law Judge, Director of Administrative Law Division (First level appeals and Commission appeals). (Lisa.rowley@vec.virginia.gov)

Are you a party or do you defend in court litigation? Yes. The Virginia Employment Commission is a party to appeals from its final agency decisions (benefits and tax) to the state court system and beyond. The Attorney General's Office represents the agency in such appeals.

Changes in Management of Workload or Operations: There has been a reduction in staff due to a decrease in UI grant funding, along with a decrease in the number of appeals.

WASHINGTON

Lower Authority Appeals

Chief of Appeals: Lorraine Lee is Chief Administrative Law Judge of the Washington

State Office of Administrative Hearings (OAH). (lorraine.lee@oah.wa.gov) OAH is a “central panel” agency responsible for conducting unemployment insurance appeals, as well as a variety of other types of cases for more than 20 state government agencies. Chief Judge Leeman manages 102 ALJ’s and 77 staff located in five field offices. Ed Steinmetz is the Senior ALJ for Quality Assurance (edward.steinmetz@oah.wa.gov).

Statutory Changes Affecting UI Appeals: There have been no significant changes in state law affecting UI appeals in 2014.

Changes in Management of Workload or Operations: Chief Lee decided to consolidate the supervision of all UI adjudication matters statewide under the direction of Chris Thomas, Assistant Chief Judge for the Spokane Field Office. With regard to workload, Washington State has experienced a reduction in the number of UI-related appeals to 40,000 appeals or less annually. USDOL has reduced the quarterly review sample size from 40 to 20 cases per quarter as a result of this reduction. However, the number of UI-related appeals being filed remains strong.

The OAH has been trying to find efficiencies in processing UI appeal requests. Through Collaborative efforts between ESD and OAH, ESD will no longer issue a Notice of Appeal document which was duplicative to the notice of hearing OAH issues and caused the parties’ confusion.

Higher Authority Appeals

Chairperson of Board of Review: Chief Review Judge is Don Westfall. He is appointed to the position by the Commissioner of the Washington State Security Department and reports directly to the Commissioner. He oversees the Commissioner’s Review Office of the Employment Security Department (ESD). (dwestfall@esd.wa.gov)

Are you a party or do you defend in court litigation? The Department’s decisions are the final agency order and may be appealed to a Washington State Superior Court. The Department is a party to the court appeal, and is represented by an Assistant Attorney General from the Washington State Attorney General’s Office.

Changes in Management of Workload or Operations: In early 2013, the Department began the transition from paper case files to all electronic case files, and achieved all electronic files by the end of 2013. The five line Review Judges telework from home five days a week and access their caseloads via computer, including digital audio recordings of the hearings conducted by the lower authority. Current annual caseload is approximately 4,000 with an average case aging of approximately 15 days. The office consists of seven judges and two support staff (legal secretaries). For comparison, from 2006 through 2009, the office had 11 judges and five support staff handling an annual average of approximately 4,000 cases, and had a slightly higher case aging of 18 days.

WEST VIRGINIA

Lower Authority Appeals

Chief of Appeals: Truman Sayre is the Chief Administrative Law Judge.
(truman.l.sayre@wv.gov)

Statutory Changes Affecting UI Appeals: WV Code Chapter 21A-6-3(6) was adopted and provides: An individual who has voluntarily quit employment to accompany a spouse serving in active military services who has been reassigned from one military assignment is not disqualified from benefits; provided, however, that the account of the employer of an individual who leaves the employment to accompany the military spouse reassigned from one military assignment to another may not be charged.

Significant UI Case Law in Past Year: In *Lightning Energy Services, LLC v. Aaron Horne*, 2014 WL 4930073 (W.Va. Oct 2, 2014), the West Virginia Supreme Court of Appeals held that the employer was deprived of “a fair hearing and reasonable opportunity to be heard before an appeal tribunal.” The case was remanded for an ALJ hearing for additional evidence on the issue of the claimant’s alleged acts of embezzlement.

Changes in Management of Workload or Operations: The workload has decreased approximately 12% from the fiscal year ending March 31, 2014 (5435 appeals) to the fiscal year ending March 31, 2015 (4784 appeals).

Higher Authority Appeals

Chairperson of the Board of Review: Martha Yeager Walker. Scott Adkins is the contact (Scott.a.adkins@wv.gov)

Are you a party or do you defend in court litigation? The WV UC Board is a party to appeal litigation to the Circuit Court of Kanawha County, WV, and the WV Supreme Court of Appeals. The WV Board does not appear and does not defend in court litigation, but speaks through its written decisions and orders. WorkforceWV is also a party to appeal litigation. WorkforceWV appears and participates in appeal litigation.

Changes in Management of Workload or Operations: The workload has decreased approximately 8 % from the fiscal year ending March 31, 2014 (966 appeals) to the fiscal year ending March 31, 2015 (885 appeals).

WISCONSIN

Chief of Appeals: Lili B. Crane (LiliB.Crane@dwd.wisconsin.gov)

Statutory Changes Affecting UI Appeals: In 2014, there were several statutory changes to the Wisconsin UC Act. These included: 1) Eliminating 8 out of 17 quit exceptions;

2) Modification of quit exception for a quit within the first 10 weeks of employment; 3) Modification to the quit to follow spouse exception; 4) Amendment to the quit requalification requirement; 5) Addition of discharge for “substantial fault” to the definition of “misconduct”; 6) Modification to the requalification requirement for “misconduct” and “substantial fault”; 7) Addition of disqualification when a claimant is receiving SSDI; 8) Change in work search requirement for claimants whose last employer was a temporary help company; 9) An increase in claimants’ weekly work search from 2 to 4 efforts; 10) Added requirement that claimants create and protect security credentials; 11) Modified suspension for claimant’s failure to provide information to the department; 12) Amendment to suitable work requirement eligibility; 13) Changed prisoners’ work-release outside prison to non-covered employment; 14) Repeal of payment of extended training benefits.

Changes in Management of Workload or Operations: The lower authority has implemented computer-assisted scheduling for benefit appeal cases and is currently working on developing computer-assisted scheduling of tax appeal cases. Because of a lower appeal caseload, the lower authority is also reviewing value stream mapping and other efficiencies.

Higher Authority Appeals

Chief of Appeals: Laurie R. McCallum is Chairperson of the Wisconsin Labor & Industry Review Commission. Tracey Schwalbe is chief legal counsel. (Tracey.Schwalbe@wisconsin.gov). The Commission also handles higher authority appeals for workers’ compensation and equal rights (fair employment and public accommodation) cases, as well as a few other smaller legal areas.

Are you a party or do you defend in court litigation? The Commission is a defendant in court appeals and defends its UI decisions in court litigation. The Commission puts significant Commission decisions and summaries of significant UI court cases on its website, which has recently been updated. There is a searchable database of its decisions that is organized by a UI digest of cases (<http://lirc.wisconsin.gov/default.htm>).

Changes in Management of Workload or Operations: In 2013, the Commission conducted a Value Stream Mapping event to identify and eliminate waste in its review process (e.g., staff time, materials, and nonproductive time), and to streamline and simplify the review process.

WYOMING

Lower Authority Appeals (James Reed – james.reed@wyo.gov)

Higher Authority Appeals (Charlotte Power – Charlotte.powers@wyo.gov)

