

3310.2921 CONDUCT OF HEARING.

The chief unemployment law judge has discretion regarding the method by which the hearing is conducted. The hearing must be conducted by an unemployment law judge as an evidence-gathering inquiry, without regard to a burden of proof. The order of presentation of evidence is determined by the unemployment law judge.

Each party may present and examine witnesses and offer their own documents or other exhibits. Parties have the right to examine witnesses, object to exhibits and testimony, and cross-examine the other party's witnesses. The unemployment law judge must assist all parties in the presentation of evidence. The unemployment law judge must rule upon evidentiary objections on the record. The unemployment law judge must permit rebuttal testimony. Parties have the right to make closing statements. Closing statements may include comments based upon the evidence and arguments of law. The unemployment law judge may limit repetitious testimony and arguments.

The unemployment law judge must exercise control over the hearing procedure in a manner that protects the parties' rights to a fair hearing, including the sequestration of witnesses to avoid prejudice or collusion. The unemployment law judge must ensure that all relevant facts are clearly and fully developed. The unemployment law judge may obtain testimony and other evidence from department employees and any other person the judge believes will assist the judge in reaching a proper result.

Before taking testimony, the unemployment law judge must inform the parties of the following:

- A. that the purpose of the hearing is to take testimony and other evidence on the issues;
- B. that the hearing is the only opportunity available to the parties to present testimony and other evidence on the issues involved;
- C. an explanation of how the hearing will be conducted, including the role and obligations of the unemployment law judge;
- D. that the parties have the right to request that the hearing be continued so that additional witnesses and documents can be presented, by subpoena if necessary;
- E. that the facts will be determined upon a preponderance of the evidence, along with the statutory definition of "preponderance of the evidence";
- F. the statutory provision on burden of proof;
- G. that certain government agencies may have access to the information provided at the hearing if allowed by statute and that the information provided may be disclosed under a district court order; and

H. that after the hearing is over, the unemployment law judge will issue a written decision, which will be sent to the parties by mail or electronic transmission.

Statutory Authority: *MS s 14.386; 14.388; 116J.035; 268.021; 268.10; 268.105*

History: *12 SR 2252; L 1997 c 66 s 79; 31 SR 285; 33 SR 999; 39 SR 151*

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