

430 CMR: DIVISION OF UNEMPLOYMENT ASSISTANCE

430 CMR 11.00: PROCEDURES FOR NON-MONETARY REDETERMINATIONS UNDER M.G.L. c. 151A, § 71

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11.01: Purpose

The purpose of 430 CMR 11.00 through 11.10, inclusive, is to promulgate Department of Employment and Training (DET) local office procedures governing non-monetary redeterminations of unemployment insurance claims under M.G.L. c. 151A, § 71.

11.02: Scope and Applicability

430 CMR 11.00 through 11.10, inclusive, apply to all non-monetary redeterminations under M.G.L. c. 151A, § 71, except those pertaining to single party issues. 430 CMR 11.00 through 11.10, inclusive, are procedural in nature and limited to redeterminations based on non-monetary issues; 430 CMR 11.00 do not establish the substantive grounds for redeterminations and do not apply to redeterminations based on monetary issues.

11.03: Definitions

Customer Service Representative (CSR): A DET local office employee responsible for making determinations and redeterminations of unemployment insurance claims.

Local Office: A field office of the Division of Employment and Training established pursuant to M.G.L. c. 23, §9M.

Non-Monetary Redetermination: A redetermination of an unemployment insurance claim pursuant to M.G.L. c. 151A, §71, other than a redetermination based on a monetary issue.

Redetermination: Reconsideration of a determination of an unemployment insurance claim pursuant to M.G.L. c. 151A, §71.

11.04: Notice to Claimant

When the CSR receives sufficient information to warrant a review of an unemployment insurance claim, the CSR should advise the claimant that there is additional information which may affect the claimant's claim for benefits. The CSR should advise the claimant that he or she will have an opportunity to present evidence or refute opposing positions before the redetermination, if any, is made. The CSR should mail the claimant Form 3733-Notice of Claim Discrepancy, detailing the reason for the review and the date the redetermination, if any, will be made.

11.05: Payment of Benefits Pending Decision on Redetermination

If the claimant is receiving benefits, DET will pay unemployment insurance benefits up to the Saturday prior to the date of the notice given pursuant to 430 CMR 11.04.

11.06: Interview With Claimant

- (1) The CSR should schedule an interview with the claimant to take place in 14 calendar days (usually the claimant's next reporting date). If the claimant wishes the interview to take place prior to the 14th day, the CSR should make a reasonable effort to schedule and conduct the interview at the claimant's convenience.
- (2) The CSR should contact the employer and/or any other source of the information during the 14 day period so that the issues will be resolved on the day of the interview.
- (3) All information should be contained in the case folder. This includes information or evidence that warranted review of the claim and any additional information gathered during the 14 days prior to the date of the interview. The claimant can review the DET case folder at any time prior to the interview.
- (4) The CSR's decision on whether a redetermination is appropriate shall be based solely on the information contained in the case folder.
- (5) If a claimant notifies the local office that because of extenuating circumstances he/she is not able to report for the interview, the CSR should reschedule the interview preferably within 48 hours but not later than one week.
- (6) At the date of the scheduled interview, the CSR should complete a new Form 113, Claimant's Statement of Facts or Form 113B, Employer's Statement - Claimant's Rebuttal. The CSR should also record in the case file any additional relevant information.
- (7) If the claimant does not report, as scheduled, the CSR should complete the factual evaluation of relevant information by the 14 calendar day. If the CSR decides that a redetermination is appropriate, the redetermination should also be made by the fourteenth calendar day.
- (8) The CSR should follow regular procedures in conducting the interview, making the redetermination (if any) and notifying the appropriate interested parties.

11.07: Use of Interpreters at Interviews

A claimant who cannot communicate in and/or comprehend English is entitled to bring an interpreter to the interview and to have the interpreter translate for him or her, in accordance with 430 CMR 4.19.

11.08: Representation at Interview

An agent, legal counsel, or advocate may accompany the claimant to the interview and may represent the claimant at the interview.

11.09: Procedures Following Interview

- (1) If, at the interview, the CSR determines that there is a change in the claimant's eligibility resulting in an approval of benefits that were previously denied, the CSR will send the employer any determinations due him or her regarding timeliness and the approval of benefits.
- (2)(a) If, at the interview, the CSR determines that there is a change in eligibility resulting in a denial of benefits that were previously approved, the CSR will issue a written redetermination to the claimant. The employer should be sent any necessary determinations due him or her regarding timeliness and the denial of benefits.
 - (b) A claimant who is redetermined as ineligible will not be issued a check(s) on the date of the redetermination for any prior weeks, and an overpayment will be set up for the appropriate weeks.

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11.09: continued

(3) If, at the interview, the CSR determines that no change in eligibility will be made, the CSR should indicate the disposition on the Form 113 or Form 113-B. The employer should be sent any necessary determinations due him or her regarding timeliness and the approval or denial of benefits.

(4) If there is no change in the determination approving benefits or if the redetermination results in an approval of benefits, the claimant shall be paid any benefits due him or her, if otherwise eligible.

11.10: Appeals

Appeals from redeterminations issued pursuant to 430 CMR 11.00 through 11.09, inclusive, shall be governed by the appeal procedures set forth in M.G.L. c. 151A, § 39(b) with respect to original determinations.

REGULATORY AUTHORITY

430 CMR 11.00: M.G.L. c. 151A.

NON-TEXT PAGE