

CHAPTER 12**UNEMPLOYMENT BENEFIT AND STATE PLAN
TEMPORARY DISABILITY CASES****Authority**

N.J.S.A. 34:1A-3(e); 43:21-6(d) through (f); 43:21-17;
43:21-25 et seq.; and 52:14F-5(e), (f) and (g).

Source and Effective Date

R.1999 d.291, effective July 29, 1999.
See: 31 N.J.R. 1550(a), 31 N.J.R. 2603(a).

Executive Order No. 66(1978) Expiration Date

Chapter 12, Unemployment Benefit and State Plan Temporary Disability Cases, expires on July 29, 2004.

Chapter Historical Note

Chapter 12, Unemployment Benefit and State Plan Temporary Disability Cases, was adopted as R.1994 d.406, effective August 1, 1994. See: 26 N.J.R. 2174(a), 26 N.J.R. 3154(a).

Pursuant to Executive Order No. 66(1978), Chapter 12, Unemployment Benefit and State Plan Temporary Disability Cases, was readopted as R.1999 d.291, effective July 29, 1999. See: Source and Effective Date. See, also, section annotations.

CHAPTER TABLE OF CONTENTS**SUBCHAPTER 1. HEARING APPLICABILITY**

1:12-1.1 Applicability

SUBCHAPTER 2. DEFINITIONS

1:12-2.1 Definitions

SUBCHAPTERS 3 THROUGH 4. (RESERVED)**SUBCHAPTER 5. REPRESENTATION**

1:12-5.1 Representation

SUBCHAPTERS 6 THROUGH 8. (RESERVED)**SUBCHAPTER 9. SCHEDULING**

1:12-9.1 Notice of hearing

1:12-9.2 Notice of telephone hearing

1:12-9.3 Adjournments

SUBCHAPTER 10. DISCOVERY

1:12-10.1 Inspection of Division files

SUBCHAPTER 11. SUBPOENAS

1:12-11.1 Subpoenas

1:12-11.2 Witness fees

SUBCHAPTERS 12 THROUGH 13. (RESERVED)**SUBCHAPTER 14. CONDUCT OF CASES**

1:12-14.1 Public hearings

1:12-14.2 Conduct of hearing

1:12-14.3 Appeals hearings

1:12-14.4 Failure to appear

1:12-14.5 Scheduling of telephone hearings

1:12-14.6 Conduct of telephone hearing

1:12-14.7 Disqualification of members of appeal tribunals

1:12-14.8 Hearing appeals on own motion

1:12-14.9 Case transfer on own motion

SUBCHAPTER 15. EVIDENCE

1:12-15.1 General rules

1:12-15.2 Stipulations

SUBCHAPTERS 16 THROUGH 17. (RESERVED)**SUBCHAPTER 18. DECISIONS**

1:12-18.1 Decisions of appeal tribunals

1:12-18.2 Decisions of Board of Review

1:12-18.3 Correction of determination

1:12-18.4 Reopening Board of Review decisions

SUBCHAPTER 1. HEARING APPLICABILITY**1:12-1.1 Applicability**

The rules in this chapter shall apply to unemployment benefit cases and State plan temporary disability hearings under N.J.S.A. 43:21-50(b) heard by the Board of Review or the appeal tribunals of the Department of Labor pursuant to N.J.S.A. 43:21-1 (see also N.J.A.C. 12:20). Private plan temporary disability cases heard by hearing officers of the Department of Labor pursuant to N.J.S.A. 43:21-50(a) shall be conducted in accordance with N.J.A.C. 1:12A.

SUBCHAPTER 2. DEFINITIONS**1:12-2.1 Definitions**

The following words and terms, as used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

“Appeal tribunal” means the entity which conducts hearings and renders decisions concerning employer and employee appeals of decisions for unemployment benefits made at the local office level. In so doing, the appeal tribunal acts as agency head.

“Appellate body” means either the appeal tribunal, Board of Review or hearing officer which is conducting the proceeding.

“Board of Review” means the entity which conducts appeals of unemployment benefit determinations and State plan temporary disability claim determinations made by an appeal tribunal. In so doing, the Board of Review acts as agency head.

Amended by R.1999 d.291, effective September 7, 1999.
See: 31 N.J.R. 1550(a), 31 N.J.R. 2603(a).

Deleted "Division".

SUBCHAPTERS 3 THROUGH 4. (RESERVED)

SUBCHAPTER 5. REPRESENTATION

1:12-5.1 Representation

(a) Any party may represent himself or herself or be represented by an attorney or non-attorney pursuant to N.J.S.A. 43:21-17 provided that such representation shall be at the party's expense.

(b) In any unemployment benefits proceeding and on any State plan temporary disability claim proceeding on an appeal before an appeal tribunal or the Board of Review, all fees for persons representing claimants shall be approved by the Board of Review after it receives submission of an authorization form.

(c) The amount of fees approved for persons representing claimants shall be discretionary with the Board of Review. In determining the amount of fees, the Board of Review shall at least consider the following factors:

1. The amount of time spent on the case;
2. The complexity of the case;
3. The services performed as noted on the authorization form or any other documentation to the Board of Review; and
4. The results achieved (that is, favorable or unfavorable).

(d) The Board of Review or any appeal tribunal, in its discretion, may refuse to allow to appear before it any person who engages in misconduct at a hearing or who intentionally or repeatedly fails to observe the provisions of the Unemployment Compensation Law of New Jersey, the rules and regulations of the division, or the rules of the Board of Review.

SUBCHAPTERS 6 THROUGH 8. (RESERVED)

SUBCHAPTER 9. SCHEDULING

1:12-9.1 Notice of hearing

Written notices of the time and place of any hearing shall be mailed to the parties in interest at least five days before the date of hearing but a shorter notice may be given if not prejudicial to the parties.

1:12-9.2 Notice of telephone hearing

(a) The notice of telephone hearing shall at least contain the following:

1. That the parties have a right to object to a telephone hearing; and
2. Written instructions as to how the telephone hearing shall be conducted.

1:12-9.3 Adjournments

(a) Adjournments shall be granted only in exceptional situations which could not have been reasonably foreseen or prevented.

(b) Requests for adjournment of hearings scheduled before the appeal tribunal shall be made to the appeal tribunal which shall use its best judgment as to when adjournments of hearings shall be granted in order to secure all facts that are necessary and to be fair to the parties.

(c) Applications and requests for adjournment of hearings scheduled before the Board of Review shall be made at least 24 hours before the date of the scheduled hearing and shall be granted at the discretion of the Board of Review.

(d) All parties to an adjournment shall be responsible for giving prompt notice to their witnesses as to the adjournment.

SUBCHAPTER 10. DISCOVERY

1:12-10.1 Inspection of Division files

(a) In cases involving unemployment compensation benefits and State plan temporary disability claims, requests for the production or inspection of the records of either the Division of Unemployment Insurance or the Division of Temporary Disability Insurance shall be addressed to the Board of Review.

(b) A request for the production or inspection of the records of either the Division of Unemployment Insurance or the Division of Temporary Disability Insurance shall be in writing and shall clearly state the nature of the information required and the reason therefor.

(c) Orders for the production or inspection of the records of either the Division of Unemployment Insurance or the Division of Temporary Disability Insurance may be issued in any proceeding to the extent necessary for the proper presentation of the case.