

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); 43:21-10; 43:21-17;
43:21-25 et seq.; and 52:14F-5(e), (f) and (g).

Source and Effective Date

R.2005 d.107, effective April 4, 2005.
See: 36 N.J.R. 3957(a), 37 N.J.R. 1015(b).

Chapter Expiration Date

Pursuant to Executive Order No. 1(2010), the chapter expiration date is extended from April 4, 2010 until the completion of the review of administrative regulations and rules by the Red Tape Review Group, and until such time as the extended regulation or rule is readopted pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq.

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: 31 N.J.R. 1550(a), 31 N.J.R. 2603(a). Chapter 12, Unemployment Benefit and State Plan Temporary Disability Cases, expired on January 25, 2005.

Chapter 12, Unemployment Benefit and State Plan Temporary Disability Cases, was adopted as new rules by R.2005 d.107, effective April 4, 2005. See: Source and Effective Date.

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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 and Workforce Development 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.

Administrative change.
See: 37 N.J.R. 1511(a).

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) A party may represent himself or herself or may be represented by an attorney or a non-lawyer representative pursuant to R.1:21-1(f)(11). Representation by an attorney shall be at the party's expense. Representation by a non-lawyer representative shall comply with N.J.A.C. 1:1-5.4.

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

(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.

Amended by R.2005 d.107, effective April 4, 2005.
See: 36 N.J.R. 3957(a), 37 N.J.R. 1015(b).
Rewrote the section.

SUBCHAPTERS 6 THROUGH 8. (RESERVED)

SUBCHAPTER 9. SCHEDULING

1:12-9.1 Notice of hearing

(a) Written notices of the time and place of any in-person or telephone 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.

(b) The notice of hearing shall contain at least the following information:

1. That the parties have a right to object to an in-person or telephone hearing, whichever is scheduled; and
2. Written instructions as to how the hearing shall be conducted.

Amended by R.2005 d.107, effective April 4, 2005.
See: 36 N.J.R. 3957(a), 37 N.J.R. 1015(b).
Rewrote the section.

1:12-9.2 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.

Recodified from N.J.A.C. 1:12-9.3 by R.2005 d.107, effective April 4, 2005.

See: 36 N.J.R. 3957(a), 37 N.J.R. 1015(b).

Former N.J.A.C. 1:12-9.2, Notice of telephone hearing, repealed.

1:12-9.3 (Reserved)

Recodified to N.J.A.C. 1:12-9.2 by R.2005 d.107, effective April 4, 2005.

See: 36 N.J.R. 3957(a), 37 N.J.R. 1015(b).

Section was "Adjournments".