

CHAPTER 27-02-10
ADMINISTRATIVE HEARING UPON APPLICATION FOR REVIEW AND
REDETERMINATION OF RATES OF CONTRIBUTION

Section

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27-02-10-01. Appointment of special deputy.

The bureau may in connection with all hearings provided for under the terms of this chapter, appoint a special deputy, who shall be attached to the staff of the unemployment compensation division of the bureau in a full-time capacity and who shall by virtue of the appointment have the power and authority to do all things hereinafter stated to be done by the bureau by the terms of this chapter. This appointment shall be in writing and shall be in effect until revoked by further instrument in writing by the executive director of the bureau. The deputy shall have full authority to hold hearings, render decisions and findings of fact, and do all other administrative acts which by the terms of this chapter are provided to be done by the bureau. This special deputy shall be a person attached to the unemployment compensation division, and nothing herein shall be construed to provide for the appointment of additional persons to the staff of said division. The appointment shall not preclude the bureau from conducting such hearings or doing any other act herein provided for in connection with any case which the bureau shall order to be transferred from the special deputy.

General Authority: NDCC 52-02-02

Law Implemented: NDCC 52-04-10

27-02-10-02. Presentation of application for review and redetermination.

1. An employer applying for review and redetermination of the employer's rate of contributions shall file with the unemployment compensation division of the bureau an application setting forth:
 - a. The name, address and official position of the person filing the application.
 - b. Name, address, and identification number of the employer.
 - c. Brief statement of the question involved and reasons for the application for review and redetermination of the rate of contribution.
2. An employer who has applied for a review and redetermination of the employer's rate of contributions may withdraw the application by filing with the director of the unemployment compensation division a written notice of withdrawal.
3. The bureau may either grant or deny any application for review and redetermination of an employer's rate of contribution. A copy of the decision of the bureau on any application shall be mailed to the employer at the employer's last known address within twelve days of the filing of the application.
4. If the application for review is granted, the bureau shall proceed to schedule the hearing and shall mail a notice to the employer at the employer's last known address at least seven days before the hearing, specifying the time and place thereon. If the employer or the employer's representative fails to appear at the hearing, the rate of contribution as originally reported will become final unless the employer, within twelve days thereafter appears and shows good cause for the employer's former nonappearance in which latter event the bureau shall reschedule the hearing.

5. Orders for supplying information from this agency to the employer or the employer's representative, if necessary for the proper presentation of the employer's case, shall be issued only upon application therefor. All applications for information in the records of the agency shall show as nearly as possible the information desired.
6. Subpoena to compel the attendance of witnesses and production of records for any hearing on the rate of contributions, unless directed by the bureau or its deputy, shall be issued by the bureau only upon a showing of a necessity thereof by the employer or the employer's representative.

General Authority: NDCC 52-02-02

Law Implemented: NDCC 52-04-10

27-02-10-03. Hearings on rates of contributions.

1. Hearings shall be held at the office of the unemployment compensation division in Bismarck unless, in its discretion, the bureau may determine upon another place within the state.
2. The executive director of the bureau or the special deputy herein referred to shall preside over the hearings.
3.
 - a. Any individual may appear for oneself in any proceeding before the bureau or its deputy. Any partnership may be represented by any of its members.
 - b. Any individual may appear by an attorney at law, admitted to practice before the highest court of this state, or the highest court of any state or territory of the United States, or by any other person who is qualified to represent others.
 - c. The bureau or its deputy, in the deputy's discretion, may refuse to allow any person to represent others in any proceeding before the deputy who the deputy finds is guilty of unethical conduct, or who intentionally and repeatedly fails to observe the provisions of the Unemployment Compensation Act, or the regulations and instructions of the state agency.
4. All hearings shall be conducted informally and in such a manner as to bring out the facts relevant to the determination of the application. All testimony at the hearings shall be by oath or affirmation and shall be recorded but need not be transcribed unless a petition is filed for a judicial review, except the bureau, during the hearings, may indicate a portion of the evidence that should be transcribed to aid the bureau in preparing the findings of facts or decision. The employer may make a written submission of the facts involved and shall be permitted to present arguments submitted by written brief upon the questions of law involved. The bureau may decide the question on the basis of such stipulation and argument, or may in its discretion set the question for hearing and take such further evidence as may be deemed necessary.
5. The bureau shall use its best judgment as to when adjournment of a hearing shall be granted in order to secure all the evidence that is necessary.

General Authority: NDCC 52-02-02

Law Implemented: NDCC 52-04-10

27-02-10-04. Determination of rate of contribution.

1. Within ten days after the conclusion of the hearing, the bureau shall announce its findings of fact and determination which shall be in writing and shall be signed by the executive director or the deputy who presides in such hearing.

2. A copy of the determination shall be mailed by registered mail to the employer at the employer's last known address.

General Authority: NDCC 52-02-02

Law Implemented: NDCC 52-04-10