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**Rules of**  
**Department of Labor and**  
**Industrial Relations**  
**Division 20—Labor and Industrial**  
**Relations Commission**  
**Chapter 4—Rules Relating to Employment**  
**Security Appeals**

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**Title 8—DEPARTMENT OF  
LABOR AND  
INDUSTRIAL RELATIONS  
Division 20—Labor and Industrial  
Relations Commission  
Chapter 4—Rules Relating to  
Employment Security Appeals**

**8 CSR 20-4.010 Review—Applications**

*PURPOSE: This rule sets out procedures for filing an application to review decision of the appeals tribunal of Division of Employment Security and the commission's policy on oral argument, briefs, and taking of additional evidence.*

(1) Filing.

(A) Any interested party to a decision of an appeals tribunal of the division may file an application to have the decision reviewed by the commission by filing the application with the commission or by filing it with the division, as agent of the commission, within thirty (30) days following the date of notification or mailing of the decision, as provided in section 288.200, RSMo. An application for review shall be signed by the claimant, sole proprietor, partner, or an officer or employee of a corporation. A licensed Missouri attorney may sign an application on behalf of any interested party.

(B) In the absence of an endorsement by the United States Post Office, the application for review shall be deemed to have been filed on the date received by the division or commission.

(C) An application for review filed by facsimile transmission (fax) may be filed at any office of the Division of Employment Security. An application for review filed by fax that is received by the division on a regular workday shall be considered as filed on that day. A fax received on a Saturday, Sunday, or legal holiday will be considered filed on the next regular division workday. Date and time of receipt shall be determined by the receiving fax machine. Persons filing by fax shall retain the receipt with the original document for reference by the commission if so requested.

(2) Upon receipt of the application, an acknowledgment of receipt and a copy of the application will be sent to the last known address of each interested party to the decision.

(3) An interested party means—

(A) The claimant, if any;

(B) Any employer or employing unit that has filed a timely protest in accordance with section 288.070, RSMo;

(C) Any employer or employing unit having a legal interest in any determination made under section 288.130, RSMo;

(D) Any person, employer, or employing unit having a legal interest in any assessment made under section 288.160, RSMo; or

(E) The Division of Employment Security.

(4) Briefs and Oral Argument. The party filing an application for review (or "petitioner") may request, in the application, to file a brief. The commission may, in its discretion, allow or deny briefing in the case. If briefing is allowed, the commission secretary will provide, via written correspondence to all parties, a briefing schedule. Unless a modified briefing schedule is ordered by the commission, the petitioner's brief will be due fifteen (15) days from the date of the commission secretary's correspondence establishing the briefing schedule. Respondent briefs or memoranda of law will be due within ten (10) days after the date of the commission secretary's correspondence acknowledging the commission's receipt of the petitioner's brief or memorandum of law. Because of the federal regulations requiring prompt decision-making by the commission, requests to extend the briefing schedule in employment security matters are generally disfavored, and will only be granted in extraordinary circumstances.

(A) All briefs are subject to the following requirements:

1. Be on paper of size eight and one-half inches by eleven inches (8 1/2" x 11");

2. Be typed on one (1) side of the paper;

3. Have a left, right, bottom, and top margin of not less than one inch (1"). Page numbers may appear in the bottom margin, but no other text may appear in the margins;

4. Have all pages consecutively numbered;

5. Use characters throughout the briefs, including footnotes that are not smaller than thirteen- (13-) point font, Times New Roman;

6. Be double-spaced; provided, however, that the cover, if any, certificate of service, and signature block may all be single-spaced; and

7. Contain a certificate of service verifying that a copy has been sent to the opposing party.

(B) The petitioner's brief shall not exceed thirty (30) pages. A respondent's brief shall not exceed twenty-five (25) pages. Upon its own motion, or upon motion by any interested party, the commission may, in its discretion, strike any brief or portion of a brief that is not filed in accordance with these rules.

(C) The brief of the petitioner should contain a fair and concise statement of facts with-

out argument. The respondent's brief may supplement the statement of facts if necessary. The briefs should identify the issues in dispute and address those issues only, state concisely the factual or legal support for the party's positions, and contain a conclusion in detail as to the decision, award, or action requested from the commission.

(D) Oral argument may be ordered by the commission upon its own motion or upon a request set forth in an application for review or response, if any. Untimely requests for leave to present oral argument will not be entertained, nor will any request to present oral argument in lieu of a brief be allowed.

(5) Additional Evidence.

(A) After an application for review has been filed with the commission, any interested party may request permission to submit additional evidence. The commission will not consider additional evidence unless the evidence is newly discovered, or the need for the evidence could not have been reasonably anticipated before the hearing, or the evidence could not with reasonable diligence have been produced at the hearing before the appeals tribunal. The request to submit additional evidence should set out specifically and in detail—

1. The nature and substance of the newly discovered evidence;

2. Names of witnesses to be produced; and

3. Nature of the exhibits to be introduced.

(B) Before accepting additional evidence into the record, the commission will send written notice to all interested parties advising them of the request and allowing an opportunity to submit to the commission, within fifteen (15) days, written objection to the request to submit additional evidence. If a timely objection is received, the commission may issue an order allowing or denying the request to submit additional evidence, or may order that the appeals tribunal hold a hearing to permit all interested parties an opportunity for cross-examination and/or the presentation of rebuttal evidence. If no objections are received within fifteen (15) days of the commission's notice of the request to submit additional evidence, the commission may accept the additional evidence into the record without further notice to the parties. The commission is opposed, as a matter of policy, to the introduction of additional evidence except when it considers this action necessary for the furtherance of justice. Therefore, all available evidence should be introduced at the hearing before the appeals tribunal.



(6) An application for review filed more than thirty (30) days from the date of notification or mailing by the division is untimely. The commission does not have statutory authority to accept untimely applications for review. However, if the application for review alleges either that the party filed an earlier, timely application for review that was not properly acknowledged, or that the party was deprived due notice of the decision of the appeals tribunal, the commission may remand the matter for a hearing before the appeals tribunal for the purpose of taking evidence to determine whether the commission may take jurisdiction of the appeal.

*AUTHORITY: sections 286.060, 288.200, and 288.230, RSMo 2016.\* This version of rule filed Dec. 18, 1975, effective Dec. 28, 1975. Amended: Filed July 6, 1987, effective Oct. 11, 1987. Amended: Filed Aug. 31, 1989, effective Nov. 26, 1989. Amended: Filed Dec. 4, 1991, effective May 14, 1992. Amended: Filed Sept. 24, 1992, effective April 8, 1993. Emergency amendment filed July 25, 1996, effective Aug. 28, 1996, expired Feb. 23, 1997. Amended: Filed July 25, 1996, effective Jan. 30, 1997. Amended: Filed Nov. 26, 1997, effective May 30, 1998. Amended: Filed April 11, 2019, effective Oct. 30, 2019.*

*\*Original authority: 286.060, RSMo 1945, amended 1947, 1980, 1995, 2011; 288.200, RSMo 1951, amended 1984, 1992, 1996; and 288.230, RSMo 1951.*