



CNMI DEPARTMENT OF LABOR

ADMINISTRATIVE HEARING OFFICE

1357 Mednilla Ave., Capitol Hill; PO Box 10000, Saipan MP, 96950 (670) 664-3291/2 hearing@dol.gov.mp www.marianaslabor.net

FREQUENTLY ASKED QUESTIONS

1. What does the Administrative Hearing Office do?

The Administrative Hearing Office receives, hears, and adjudicates all labor, agency, and denial cases – including appeals under the Pandemic Unemployment Assistance (“PUA”) or the Federal Pandemic Unemployment Compensation (“FPUC”) programs. The staff is responsible for processing filings, scheduling hearings, and ensuring orderly and complete maintenance of records. The Administrative Hearing Officer will review your filings, preside over any scheduled hearing, and ultimately decide the outcome of the complaint or appeal.

The Administrative Hearing Office does not investigate tips, entertain unofficial complaints, or offer legal advice.

2. Can I talk to the Administrative Hearing Officer about my case?

The Administrative Hearing Officer, and by extension—office personnel, must remain impartial at all times. This rule protects all parties, including you, from unfairness and injustice.

Because this office must remain impartial, the Administrative Hearing Officer cannot engage in “ex parte” communications (i.e., one-sided contact or conversations) with a party to a case. The Administrative Hearing Office only talks to the parties when both sides are present at a noticed hearing. Additionally, office personnel cannot communicate messages from parties to the Administrative Hearing Officer. If you need to communicate with the Hearing Officer, you can do so by filing a written request or motion.

3. Can I ask the office personnel to help me prepare my legal documents or give me legal advice?

The need to maintain impartiality and prohibition against “unauthorized practice of law” prohibits the office personnel from preparing legal documents, giving legal advice, or rendering any service requiring the use of legal skill and knowledge to parties. Legal advice is a written or oral statement that:

- Interprets some aspect of the law, rules, or procedure;
- Recommends a specific course of action; or
- Applies the law to the individual person’s specific circumstance.

Office personnel can never attempt to influence the outcome of any case. Specifically, Office personnel **cannot**:

- Advise you whether or not you should file your complaint or appeal;

- Advise you of the likeliness of winning your case or merits of your claims;
- Advise you of what to say in a hearing;
- Fill out a form for you, or tell you what to write in your complaint/motion/request;
- Sign an order or change an order written by the Administrative Hearing Officer; and
- Explain the legal meaning or effect of an Order to you.

4. Can you refer to me an attorney?

In order to maintain neutrality and impartiality, the Administrative Hearing Office cannot refer you to a specific attorney. Please see if there are any referral services available from the CNMI Bar Association.

5. Do I need an attorney?

You have the right to hire an attorney or another individual who you authorized to represent you at your hearing, at your expense. You are not required to have an attorney or representative at the hearing. Regardless, the Administrative Hearing Office will ensure that you, whether represented or not, receives a fair and impartial hearing.

If you feel like you need legal counsel to help you through this process, it would be best to obtain an attorney as soon as possible. If you do have legal representation, they must file a Notice of Appearance with the Administrative Hearing Office to ensure he or she is served with notice of the hearing.

6. Where can I find the applicable rules?

The applicable statutes and regulations are published online under cnmilaw.org. Additionally, previous decisions are published in the Commonwealth Register. Some of those decisions published in the Commonwealth Register are also posted on the Department of Labor website at marianaslabor.net.

With regards to the PUA and FPUC programs, federal guidance is available on the US Department of Labor, Employment Training Administration website. Select information is also published on the Department website, marianaslabor.net.

7. What is the deadline to file labor complaint or PUA appeal?

With respect to labor complaints filed at the Administrative Hearing Office, the applicable statute of limitations is six months. This means a complainant generally cannot recover damages (i.e., unpaid wages) from labor claims that accrued over six months from your filing date.

With respect to PUA Appeals, the claimant must file their appeal within ten (10) calendar days after the determination or redetermination was mailed to the claimant. The appeal period may be extended to thirty (30) calendar days by a showing of good cause.

The time for filing your case can vary depending on the particular facts involved and can be difficult to calculate. You may consult a lawyer to help you figure this out.

8. Where can I find the available forms?

For your convenience, the Department has standardized a number of hearing related forms. The available forms (including PUA/FPUC forms) are available for download on the CNMI Department of Labor’s website (marianaslabor.net) under the “Forms & Publications” tab. Hard copies are available at the Administrative Hearing Office. If the standardized forms do not fit your need, you may submit a signed written letter or legal brief that states your request and reasons supporting your requests.

9. I cannot obtain all the requested or supporting documents—can I still file my complaint without it?

With respect to labor complaints, the Administrative Hearing Office requests information and documents to: (1) establish jurisdiction; (2) review the claims; and (3) identify the correct parties and locate/contact said parties for service of process. While you may still file your complaint, there may be delays in processing or service due to the incomplete information. If the Hearing Officer determines there are legal deficiencies or missing information that would prevent the case from moving forward, a written Order with instructions may be issued.

With regards to PUA, you must file the appeal form with a copy of the determination that you are appealing.

10. What are the applicable filing fees?

The following fees are set by regulation:

Category	Amount
Filing a labor complaint with the Administrative Hearing Office	\$20 / person
Filing an agency complaint with the Administrative Hearing Office	No Fee
Filing a Denial Case (Appeal) with the Administrative Hearing Office	\$25 / person
Filing a PUA Appeal with the Administrative Hearing Office	No Fee
Filing a Motion or Request	No Fee
Filing an Appeal to the Secretary (not available in agency cases)	\$40
Recording of the Labor Hearing	\$75
Copies	\$0.50 / page

11. Are there any fee waivers?

Yes. If a complainant cannot pay the filing fee, he or she may request to proceed in forma pauperis by filling out the IFP form.

In order for the fee to be waived, the request to proceed in forma pauperis must be approved by the Administrative Hearing Officer or designee. The eligibility for a waiver is determined by law and is not automatically approved.

Note: This waiver only applies to filing fees, not copies or other costs.

12. How do I file a document?

Parties must file their documents directly to the Administrative Hearing Office in Saipan by delivering it in-person, by certified mail, or through electronic mail. Due to budgetary restraints, parties may be required to file hard copies if their documents exceed 20 pages. Please do not email sensitive or confidential personal information.

13. I filed my complaint/appeal, now what can I expect?

With respect to labor complaints, the office personnel will serve your complaint to the opposing party if you are unrepresented by legal counsel. The opposing party will have ten (10) days to file a response to the complaint. After Respondent has an opportunity to file a response, the Administrative Hearing Officer will review the filings and draft a written order that either: (1) requests additional information; (2) refers the matter to Enforcement for further investigation; or (3) schedules the matter for a hearing. Parties should pay special attention to written orders because they provide instructions, deadlines, and notice of hearings. Parties should ensure that their contact information at the Administrative Hearing Office is up to date so they do not miss deadlines and scheduled hearings.

With respect to PUA appeals, the claimant will receive a Notice of Hearing advising of the date, time, location and method of the hearing. The Notice will include the instructions for preparing and participating in your scheduled hearing.

14. I received a labor complaint against my company, what should I do?

First, you should review the filings to ensure your contact information and name is correct. If you need to correct contact information or designate an authorized representative to appear on your behalf, please provide the contact information or designation to the Administrative Hearing Office.

Second, if a written order is accompanied with the labor complaint, you should carefully review the written order and make note of any instructions, orders, established deadlines and scheduled hearings.

Third, you may file a response to the complaint using the designated form. While a response is not required, it is encouraged because it can help identify issues and streamline any investigations or adjudications.

15. I can't attend my hearing at the scheduled time, what can I do?

You must make every effort to attend the hearing. If you have a very serious conflict and cannot attend the hearing, you may request a continuance, using the standardized form. Due to mandated time constraints and volume of cases, you should only request to reschedule if you have a prior commitment that is both very important and cannot be changed (i.e., previously scheduled court hearing or undue hardship). Generally, hearings will not be postponed for personal reasons such as everyday scheduling conflicts like child-care and business appointments.

Unless otherwise indicated on the written Order, requests to reschedule or continue a hearing should be filed more than five (5) business days before the scheduled hearing. The request should state the reason why you need to reschedule or continue the scheduled hearing. You should not assume that a request to reschedule has been granted until you have received written confirmation from the Administrative Hearing Office.

16. I can't attend my hearing in person, are there any other options?

Under certain circumstances, hearings may be conducted online or telephonically. You may file a request for an online or telephonic hearing and the hearing officer will determine whether it is appropriate for your case. If parties are allowed to appear telephonically or online, the parties must be within the CNMI to participate in the hearing due to jurisdictional limitations.

17. Who needs to appear for the hearing?

The named parties to a case should appear for the hearing. Depending on the type of hearing, parties may wish to bring witnesses or other representatives to provide testimony on the relevant issues.

18. Can I send someone to appear for the hearing in my place?

Generally, failure to personally appear for your scheduled case may lead to dismissal or default judgement.

If a responding company's highest official is unable to appear, they may send an authorized representative. Because the hearing is your critical opportunity to opportunity to present your case or defense to the hearing officer, a responding company should send an authorized representative that: (1) has a firm understanding of the case, (2) able to actively participate in the hearing; and (3) can represent your company's best interests. If your authorized representative is unable to effectively participate in the proceedings, you may lose your case.

19. What if I miss my scheduled hearing?

It is important that you are ready and prepared to go forward with your hearing at the scheduled time. In Labor or Agency cases, your failure to appear may result in a default judgment, dismissal, or denial of further right to appeal. In PUA Appeals, the failure to appear will not result in an automatic denial. Instead, the hearing will continue without you and a decision will be made based on the available evidence and applicable law.

20. I need accommodations, what can I do?

If you need accommodations, such as an interpreter, please submit your request using the standardize form. The Hearing Office will work with you to assure the appropriate accommodations are made. To ensure the availability of interpreters, please contact our office as soon as possible.

Please note that interpreters will only facilitate communication. They cannot provide advice or tell you what to say or do in your hearing.

21. I have documents that I want the Administrative Hearing Officer to consider, what should I do?

If you have documentation that you would like the Administrative Hearing Officer to consider at the hearing, please file your documents with the Administrative Hearing Office and serve it to the opposing party before the scheduled hearing or established deadline.

22. What happens in a hearing?

The hearing is similar to a court trial, but it is not as formal. The hearing is controlled by the Administrative Hearing Officer to make sure each person has an opportunity to present their case. The hearing will begin with the Administrative Hearing Officer making an opening statement about what will happen during the hearing, confirm the purpose of the hearing, introduce the administrative documents into the record, and confirm whether there are any witnesses who will be participating in the hearing. The Hearing Office will answer any questions you have about the hearing process.

Following preliminary matters, the Administrative Hearing Officer will begin receiving testimony by swearing in the first witness. When parties are unrepresented by counsel, the Administrative Hearing Officer will question the witness and then allow each party to question the witness. This process repeats with each witness to ensure that the parties have an opportunity to provide relevant and material information on the record. When both parties have no other relevant or material evidence to add, the Administrative Hearing Officer may hear closing arguments and dismiss the parties.

Usually, the Administrative Hearing Officer will not issue an oral decision. Instead, the matter will be taken under advisement and the Administrative Hearing Officer will issue a written decision and serve it to the parties.

23. How do I withdraw a complaint or appeal?

If you are the complainant in a labor case and decide that you no longer wish to move forward with the complaint/appeal process, you may withdraw your complaint/appeal by filing a voluntary dismissal form.

24. How do I prepare for a Hearing?

Among other things, you can prepare for a hearing by reviewing the case files and issued orders. Usually, the orders have written instructions for the scheduled hearing. Additionally, prepare your facts, arguments, and evidence (documents and witnesses). Any documents you intend to rely on during the hearing should be shared with the opposing party in advance of the hearing.

25. How do I request a subpoena?

If you ask someone to appear as a witness and they refuse, you may request that they be subpoenaed. This means they will be required by law to appear. You may also request a subpoena for written documents or other evidence that you are unable to obtain on your own. Requests or

application for a subpoenas may be submitted to the Administrative Hearing Office, using the standardized form.

26. When will I receive a decision?

The Administrative Hearing Office typically issues written decisions within 2-3 weeks. Due to the increased number of filings and hearings, this timeline may take longer. Please feel free to call the office for an update to make sure you did not miss anything. The Administrative Hearing Office staff cannot advise you of the results of the decision verbally.

27. I disagree with the Administrative Hearing Officer's decision, what are my appeal rights?

If you disagree with a decision in a labor case, you may appeal the decision to the CNMI Secretary of Labor. The appeal form is available for download online at marianaslabor.net. Alternatively, hard copies of the appeal form are available at the Administrative Hearing Office. The Appeal Form must be filed at the Administrative Hearing Office with the applicable filing fee.

If you disagree with a decision in a PUA Appeal, you may submit a written request the Administrative Hearing Officer to reopen the decision. The written request should be supported by legal, factual, or evidentiary reasons to reopen the decision. The written request must be submitted to the Administrative Hearing Office, either in person at 1357 Mednilla Avenue, Capitol Hill Saipan MP 96950) or via email at hearing@dol.gov.mp. In the event a request to reopen the decision is granted, the matter shall be scheduled for a subsequent hearing. In the event a request to reopen the decision is denied, or if the Appellant still disagrees with a subsequent decision, the Appellant may seek judicial review with the CNMI Superior Court under the local Administrative Procedures Act. *See* 1 CMC § 9112. All forms, filings fees, and filing deadlines for judicial review will be as established by the applicable law and court rule.