

Kansas Administrative Regulations

Department of Labor—Division of Employment

Article 2.—Unemployment Insurance; Contributing, Reimbursing and Rated Governmental Employment

50-2-19. Contribution appeal process for employers.

To resolve any protest to any determination made pursuant to K.S.A. 44-703, 44-710, 44-710a, 44-710b, 44-710d, 44-717(j), and 44-719(e), and amendments thereto, the following procedures shall be followed:

(a) Request for administrative review. The administrative review shall be made by the chief of contributions or the chief of contributions' authorized representative based upon facts presented or upon additional facts furnished by the employer or secured by the agency. An appeal to the chief of contributions or the chief's authorized representative's determination shall not stay the enforcement of the order made unless the chief of contributions or the authorized representative orders a suspension of enforcement.

(1) Notice of liability determinations. Each employer shall be notified by the secretary or designee of any determination made pursuant to K.S.A. 44-703 and amendments thereto. That determination shall become conclusive and binding upon the employer, unless within 20 days after the mailing of notice of the determination to the employer's last known address, or within 15 days after the hand delivery of that notice, the employer requests, in writing, an administrative review. The request shall set forth the reasons an administrative review is desired.

(2) Notice of contribution rate or benefit cost rate. Each contributing employer shall be notified by the secretary or designee of the employer's rate of contributions and each rated governmental employer of its benefit cost rate for any calendar year pursuant to K.S.A. 44-710, 44-710a, and 44-710d, and amendments thereto. Those determinations shall become conclusive and binding upon the employer, unless within 15 days after the mailing of notice to the employer's last known address, or within 15 days after the hand

delivery of that notice, the employer requests, in writing, an administrative review. The request shall set forth the reasons a review is requested.

(3) Notice of benefit payments. Notice shall be given annually to each contributing employer and each rated governmental employer of the benefits paid and charged to its account during the 12-month period immediately preceding the computation date. Notice shall be given quarterly to each reimbursing employer of the reimbursable benefits paid during the previous calendar quarter. Each employer shall have 20 days from the mailing of the notice to the employer's last known address, or within 15 days after hand delivery of the notice to the employer, to request in writing an administrative review to protest the correctness of the pro rata charges of benefit payments to the employer's account. Nothing in this regulation shall be construed to permit the protest of the eligibility of a claimant to receive benefits under K.S.A. 44-705, and amendments thereto, or to protest a prior determination of chargeability at the time a valid new claim is presented under K.S.A. 44-710(c), and amendments thereto. In the absence of the request in writing for an administrative review, the benefits paid and charged to the employer's account shall become conclusive and binding upon the employer for all purposes.

(4) Notice of transfer of experience rating factors. Notice shall be given to the predecessor and successor employers of the transfer of experience rating factors of a predecessor employer whose business has been acquired by a successor employer as defined in K.S.A. 44-710a(b), and amendments thereto. That determination shall become conclusive and binding upon the predecessor and the successor, unless within 20 days after the mailing of notice thereof to the predecessor's and successor's last known addresses, or within 15 days after the hand delivery of the notice, the predecessor employer, the successor employer, or both, request in writing an administrative review.

(5) Notice of willful failure to pay determinations. Any officer, major stockholder, or other person who has charge of the affairs of an employer shall be notified by the secretary of human resources or designee of any determination made pursuant to K.S.A. 44-717(j) and 44-719(e), and amendments thereto. Those determinations shall become conclusive and binding upon the employer, unless within 20 days after the

mailing of the notice to the individual's last known address, or within 15 days after hand delivery of the notice, the individual requests, in writing, an administrative review. The request shall set forth the reasons a review is requested.

(b) Request for administrative hearing.

(1) The employer shall be notified within 60 days of the results of the administrative review, in writing, by the chief of contributions or an authorized representative. The results of the administrative review shall become conclusive and binding upon the employer unless, within 20 days after the mailing of notice thereof to the employer's last known address, or within 15 days after the hand delivery of that notice, the employer requests, in writing, an administrative hearing. The request shall include the reasons a hearing is desired.

(2) If the secretary or designee grants an administrative hearing, the employer shall be notified of that determination within 10 days and shall be granted an opportunity for a fair hearing before the secretary or designee.

(3) Upon receipt of a determination granting an administrative hearing as specified in this subsection and upon agreement of all parties in interest, the parties may notify the secretary or designee, in writing, within 10 days from the receipt of the determination, of the parties' desire for mediation. This notice shall include the names and addresses of all parties in interest and a statement that all parties in interest are agreeing to mediation.

(A) Within 10 days from the receipt of a request for mediation, the parties shall be notified by the secretary or designee of the determination. If the request for mediation is denied, the matter shall proceed to administrative hearing. If the request is granted, the administrative hearing may be held in abeyance pending completion of the mediation process. The determination granting or denying a request for mediation shall not be subject to review or appeal.

(B) If the parties are unable to reach agreement through mediation, the matter shall be set for administrative hearing.

(4) At the administrative hearing, the employer shall be entitled to the following:

(A) To be present;

(B) to be represented by counsel or by a designated representative of the employer's choice, at the employer's own expense;

(C) to present oral testimony or written evidence, or both;

(D) to examine witnesses and documents;

(E) to cross-examine witnesses; and

(F) to offer rebuttal testimony or evidence.

(5) Witnesses may be subpoenaed to present materials including books, papers, and records, or to give oral testimony as provided in K.S.A. 44-714(h), (i), and (j), and amendments thereto.

(c) Judicial review. The hearing officer shall render a decision concerning all matters at issue in the hearing within 90 days. The employer shall be notified within 30 days of the secretary's findings as a result of the administrative hearing. An appeal may be taken from the order of the secretary or designee pursuant to K.S.A. 44-710b(b) or K.S.A. 60-2101(d), and amendments thereto, whichever is applicable.

(Authorized by K.S.A. 1999 Supp. 44-714; implementing K.S.A. 1999 Supp. 44-703, 44-710, 44-710a, 44-710b, and K.S.A. 44-710d; effective May 1, 1983; amended Feb. 16, 2001.)

***** Authenticated Kansas Administrative Regulation *****