**WASHINGTON STATE**

**OFFICE OF ADMINISTRATIVE HEARINGS**

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| In the matter of:CASENAME, Claimant. | **Docket No.** DOCKETNO(You must respond to each notice that has a different docket number.)**NOTICE OF BRIEF ADJUDICATIVE PROCEEDING**Agency: Employment Security DepartmentProgram: PROGRAMTYPEAgency No. ESDNO |

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| BYE: BYE | CID: CID | UIO: UIO |

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| **IF YOU HAVE MORE THAN ONE CASE FOR A BRIEF ADJUDICATIVE PROCEEDING, YOU NEED TO RESPOND TO EACH NOTICE.** |

The Office of Administrative Hearings (OAH) received your appeal of a determination of the Employment Security Department (ESD) dated DETERMINATIONDATE.

**ISSUES:** Under the authority of chapter 34.05 RCW and WAC 192-04-145, an Administrative Law Judge (ALJ) will conduct a brief adjudicative proceeding to consider:

[POHStart]

**BRIEF ADJUDICATIVE PROCEEDING:** In a Brief Adjudicative Proceeding, the judge will decide your appeal based solely on written information in the record. The record includes the enclosed exhibit packet and any additional evidence **received** on or before the “close of record” date indicated below. If you require additional time to submit evidence, you must request an extension **before** this date. If you do not submit evidence or request an extension, the judge will only consider the enclosed exhibit packet.

**HOW TO SUBMIT DOCUMENTS:** You can file documents by mail, online, by fax, or through the Participant Portal (explained below).

 Mail: 16201 E Indiana Ave, Suite 5600

 Spokane Valley, WA 99216

 Fax: (509) 456-3980

 Online: [https://oah.wa.gov/Content-Area-Management/ESD-Hub/Brief-Adjudicative-Proceedings](https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Foah.wa.gov%2FContent-Area-Management%2FESD-Hub%2FBrief-Adjudicative-Proceedings&data=05%7C01%7Cdan.gerard%40oah.wa.gov%7C1029cc273e834210909a08da855b3423%7C11d0e217264e400a8ba057dcc127d72d%7C0%7C0%7C637968924008248551%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C3000%7C%7C%7C&sdata=ZhHncpqIFDYA1YwYcfMvspZo4%2FVF7sOw6z3%2Fk%2FDZuzM%3D&reserved=0)

**CLOSE OF RECORD:** In your case, the record will close on **HEARINGDATE.**

A Brief Adjudicative Proceeding helps OAH resolve your appeal faster without the need for a telephone hearing. A judge will carefully review the information received, and will issue a written decision in your case within five (5) business days after the close of record. If you disagree with the judge’s decision, you will have the right to appeal it.

**REQUESTING A FULL HEARING:** If you do not want your appeal decided through a Brief Adjudicative Proceeding, you may request a telephone hearing by contacting OAH at the phone number below or by visiting oah.wa.gov. If you request a full hearing and fail to appear, the judge may hold you in default and dismiss your appeal. RCW 34.05.440(2).

**INTERPRETER OR ACCOMMODATIONS:** If you need an interpreter, we will provide one at no cost. If you have a disability and need an accommodation, we may be able to help. If you need an interpreter or an accommodation, please contact the Office of Administrative Hearings at (833)901-4250 or (360)407-3649.

**INSTRUCTIONS AND ASSISTANCE:** The enclosed document titled “How to Participate in your Unemployment Appeal” explains the process in detail, and may help you prepare. General information is also available online at [**oah.wa.gov**](http://www.oah.wa.gov).

If you require further assistance, you may contact OAH’s Brief Adjudicative Proceedings Navigator at:

**(833)901-4250 or (360)407-3649**

Office of Administrative Hearings

16201 E Indiana Ave, Suite 5600

Spokane Valley, WA 99216

FAX: (509) 456-3980

**Notify the Office of Administrative Hearings IMMEDIATELY if your phone number or address changes. We need to send you notices and other mail about the hearing.**

Firearms and other dangerous weapons are prohibited in all Office of Administrative Hearings offices. WAC 10-20-010.

Dated and mailed: NOTICEMAILINGDATE

**Certificate of Service**

I certify that I mailed a copy of this order to each party at the address listed below, postage prepaid, on the date stated above.

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[DATALIST]





**How to Participate in Your Unemployment Appeal**

When a decision of the Employment Security Department (ESD) is appealed, a judge from the Office of Administrative Hearings (OAH) considers and decides the appeal. OAH judges are neutral and do not work for ESD.

OAH decides appeals of ESD’s decisions in one of two ways. In the first, a hearing is held where you can speak with the judge by telephone and ask witnesses to testify. In the second, you and ESD submit all of your information to the judge in writing. You do not need to speak to the judge by telephone. This second type is called a Brief Adjudicative Proceeding (BAP). It allows OAH to decide cases more quickly than those scheduled for a telephone hearing.

**Your appeal is currently scheduled for a BAP**. You can still request a telephone hearing if you choose. Instructions on how to request a telephone hearing are below.

If you need *language assistance*, or if you need an *accommodation for a disability*, please contact OAH at (833) 901-4250 or (360)407-3649 as soon as possible.

**What is a BAP?**

In a BAP, the judge will decide your appeal based only on the following:

* ESD’s Determination Letter;
* Your appeal of the Determination Letter;
* All documents used by ESD to support its decision (provided in the enclosed exhibit packet);
* Any additional evidence submitted by ESD not in the exhibit packet;
* **Your completed Declaration Form and any additional evidence or sworn statements you submit**; and
* Any additional evidence submitted at the written request of the judge.

**How to Prepare for a BAP**

To prepare for a BAP, there are three main items enclosed. *Please read each of these carefully.*

* First is the Notice of Brief Adjudicative Proceeding. This Notice describes the issues that your BAP will address and tells you the deadline by which you must submit any evidence you want the judge to consider.
* Second is the “Declaration Form”. Use this form to tell the judge why you appealed ESD’s decision and what information you want the judge to consider. When you complete the Declaration Form, you must confirm your legal obligation to provide truthful information in that document. If you have other written information you want the judge to consider, send it in along with your completed Declaration Form.
* Third is the “exhibit packet”. This contains the evidence submitted by ESD. These exhibits will help you understand ESD’s decision. If you feel that the judge should not consider one or more of ESD’s exhibits, you can explain why in the Declaration Form, discussed next. You can also respond to the information in ESD’s exhibit packet, as explained below.

\*Remember that you must return your completed Declaration Form and any other evidence you want the judge to consider by the *close of record date* in your *Notice of Brief Adjudicative Proceeding*. If you do not provide additional evidence by the close of record date, then the judge will decide your appeal based only on the evidence in the exhibit packet.





**Submitting Documents**

You can file documents by mail, online, by fax, or through the Participant Portal (explained below).

 Mail: 16201 E Indiana Ave, Suite 5600

 Spokane Valley, WA 99216

 Fax: (509) 456-3980

 Online: [https://oah.wa.gov/Content-Area-Management/ESD-Hub/Brief-Adjudicative-Proceedings](https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Foah.wa.gov%2FContent-Area-Management%2FESD-Hub%2FBrief-Adjudicative-Proceedings&data=05%7C01%7Cdan.gerard%40oah.wa.gov%7C1029cc273e834210909a08da855b3423%7C11d0e217264e400a8ba057dcc127d72d%7C0%7C0%7C637968924008248551%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C3000%7C%7C%7C&sdata=ZhHncpqIFDYA1YwYcfMvspZo4%2FVF7sOw6z3%2Fk%2FDZuzM%3D&reserved=0)

For documents sent by mail or fax, *mark each document* with the docket number listed on the first page of your Notice of Brief Adjudicative Proceeding.

Please remove any confidential information (such as Social Security numbers, bank account numbers, and driver’s license numbers) before you file documents.

Video or audio exhibits may be sent through the Participant Portal. The file type must be supported by Windows Media Player (MP3 or MP4). If you send video or audio exhibits through the mail, they must be on a CD, DVD, or thumb drive (which will not be returned to you).

**How to Complete a Declaration Form**

A declaration is a written statement submitted to the judge where the writer swears under penalty of perjury that the contents are true. You should submit a declaration to tell the judge your story and explain why you believe the Employment Security Department’s decision is incorrect.

We sent you a blank declaration form. Please read it carefully and completely fill in all information. There is also a blank space where you can include anything else you think is important for the judge to know about your case. Be sure to sign your completed declaration form, and include the date and location where you signed it.

If you do not submit a declaration to OAH, then the judge will make a decision without your input.

If there is someone else who you think has important information for the judge to consider, you can provide that person with a blank declaration form. They should fill out the entire declaration following the instructions above. You can then submit their declaration to OAH. You are not required to submit a declaration from another person.

**Using the Participant Portal**

You can use the OAH Participant Portal at oah.wa.gov to view all of the evidence the judge will consider. On the home page, go to the yellow Manage My Case section for instructions. You can also use the Participant Portal to file your Declaration Form and any additional evidence that you want the judge to see.

All of the evidence filed in your case can be read on the Participant Portal. You will not be told when new evidence is added. It is your responsibility to check your case file to see if evidence has been added.

Please call OAH at (833) 901-4250 or (360)407-3649 if you have problems accessing the Participant Portal.





**How Will Your BAP be Decided?**

After the due date to file your completed Declaration Form and any additional evidence, the judge will review all of the information for your case and issue a written decision. OAH will mail a copy of the decision to you and upload the decision to the Participant Portal.

If you disagree with the judge’s decision, you have the right to appeal it. OAH will provide instructions for how to appeal with the judge’s decision. The instructions will include the deadline to file your appeal. Your appeal will be considered by ESD’s Commissioner’s Review Office.

**Can I Have a Telephone Hearing Instead of a BAP?**

You or ESD may request a telephone hearing. OAH will *automatically grant* that request if you make it by the close of record date in the enclosed Notice of Brief Adjudicative Proceeding. The Notice also contains instructions for how to request a telephone hearing. A BAP is designed to be speedy. Requesting a telephone hearing may delay the decision in your appeal.

Even if you and ESD do not request a telephone hearing, the judge may decide that your appeal requires one. In that case, OAH will schedule a telephone hearing and notify you.

**Requesting More Time**

OAH will not extend the deadline to file your Declaration Form and any additional evidence unless there is an important reason to do so. Call OAH as soon as possible if you need additional time. You will speak with a judge to explain why you need additional time. The judge may grant or deny your request. You must make your request for additional time **before the close of record**. Requests received after that date will not be considered.

**Research**

If you are interested in doing more research on the laws that apply to your case, you can access the Revised Code of Washington (RCW) at apps.leg.wa.gov/rcw/ and the Washington Administrative Code (WAC) at apps.leg.wa.gov/wac/. Additional resources and information are available at oah.wa.gov.

**See other frequently asked questions at oah.wa.gov**





**Resources**

Some organizations provide free or low-cost legal services. If you are interested, here are some of the resources you can contact for help:

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| **Resource Name** | **Phone Number** | **Website** |
| Office of Civil Legal Aid |  | <https://ocla.wa.gov/free-legal-help-for-unemployment-insurance-claimants/>  |
| Unemployment Law Project (Free legal representation, Free Interpreters Provided) | (888) 441-9178(509) 624-9178Email: info@ulproject.org  | <https://unemploymentlawproject.org>Click “Get Representation” |
| Washington State Bar Association | (800) 945-9722 | <https://www.wsba.org/for-the-public/find-legal-help>  |
| CLEAR(Northwest Justice Project) | (888) 201-1014 | <https://www.washingtonlawhelp.org/>  |

**Read about how to prepare at** [**www.oah.wa.gov**](http://www.oah.wa.gov)

**Questions?**

**Call OAH at (833)901-4250**

**PANDEMIC UNEMPLOYMENT ASSISTANCE DECLARATION**

|  |  |
| --- | --- |
| Claimant Name: CASENAME | Docket No.DOCKETNODeclaration of *(name):*  |

**Declaration of *(name):***

I am *(age):* years old and I am the *(check one):* [ ]  Claimant [ ]  Other

 *If Other, describe your relationship to the Claimant:*

I declare (*check all that apply*):

[ ]  I was denied regular state unemployment benefits.

*Provide date(s) and reason(s) for denial.*

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[ ]  During the weeks that I claimed Pandemic Unemployment Assistance (PUA) benefits, I could not work for the following COVID-19-related reasons (*check all that apply)*:

1. [ ]  I was diagnosed with COVID-19 or experiencing symptoms of COVID-19 and seeking a diagnosis (*provide dates of symptoms and any test results in the space below)*.
2. [ ]  A member of my household was diagnosed with COVID-19 (*provide dates, name(s), and relationship to you in the space below)*.
3. [ ]  I was providing care for family or someone who lives with me who was diagnosed with COVID-19 (*provide dates, name(s), and relationship to you below).*
4. [ ]  I had primary caregiving responsibilities for someone who usually attends a school or daycare facility that was closed because of COVID-19 (*provide dates, name(s), and relationship to you below)*.
5. [ ]  I was unable to reach my place of employment due to COVID-19 travel restrictions or quarantine (*identify your employer and explain why you could not get to work below)*.
6. [ ]  I could not work because a health care professional told me to quarantine (*provide dates, identify the health care professional, and explain why you were told to quarantine below*).
7. [ ]  I was supposed to start work but could not due to COVID-19 (*explain below where and when you were supposed to start work and why you could not start the job)*.
8. [ ]  I became the main breadwinner for my household because the previous breadwinner died from COVID-19 (*provide dates, former breadwinner’s name and relationship to you, and explain below*).
9. [ ]  I had to quit my job as a direct result of COVID-19 (*identify your employer and explain why you had to quit below)*.
10. [ ]  My workplace closed due to COVID-19 (*identify your employer and provide dates below*),
11. [ ]  I am an independent contractor with reportable income and the COVID-19 public health emergency severely limited my ability to continue performing my customary work activities, and I was thereby forced to suspend such activities (*explain below how your customary work activities were affected by COVID-19*).
12. [ ]  I refused to return to work for my employer or refused an offer of work because the worksite was not in compliance with local, state, or national health and safety standards related to COVID-19 such as face masks, providing personal protective equipment, or social distancing, and I was denied benefits as a result of the refusal (*identify employer and provide details below*).
13. [ ]  I work for a school or educational service district and was unemployed or partially unemployed due to volatility in the work schedule as a direct result of COVID-19 such as schedule changes and/or partial closure (*identify employer and provide details below*).
14. [ ]  I was laid off, or my hours were reduced as a direct result of the COVID-19 health emergency (*identify employer and provide details below*).

*For any of the statements numbered 1 through 14 that you checked, provide all relevant details*.

[ ]  Other than the reasons explained above, I was able and available to work during the weeks that I have claimed PUA benefits.

*If you were not otherwise able and available to work, explain.*

[ ]  During each week I claimed PUA benefits after July 4, 2021, I was actively searching for work or performing authorized work activities as required by state unemployment laws.

*Explain what type of work you are seeking, what you have done to search for work, and how frequently. If you were not searching for work, explain why.*

[ ]  I have not refused any offers of suitable work during a week I claimed PUA benefits.

*If you refused an offer of work during a week you claimed benefits, identify the employer and the date of the offer, and explain why you refused it.*

[ ]  I was not able to telework (work from home) for full pay with my last employer.

*Identify employer and explain.*

[ ]  I could not receive full paid leave with my last employer.

*Identify employer and explain*:

[ ]  I have attached *(number): \_\_\_* of pages.

*(Number any pages you attach to this Declaration. Page limits may apply.)*

I declare under penalty of perjury under the laws of the state of Washington that the facts I have provided on this form (and any attachments) are true.

Signed at *(city and state):* Date:

*Sign here Print name*

**BLANK DECLARATION (OPTIONAL)**

|  |  |
| --- | --- |
| Claimant Name: CASENAME | Docket No. DOCKETNODeclaration of *(name):*  |

**Declaration of *(name):***

1. I am *(age):* years old and I am the *(check one):* [ ]  Claimant

[ ]  Other *(relationship to the people in this case):*

2. I declare:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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*(Number any pages you attach to this Declaration. Page limits may apply.)*

I declare under penalty of perjury under the laws of the state of Washington that the facts I have provided on this form (and any attachments) are true. [ ]  I have attached *(number):* pages.

Signed at *(city and state):* Date:

*Sign here Print name*