

How to File a Petition for Review

The Unemployment Law Project is a small non-profit law office with limited resources, so we are unable to assist in writing a Petition for Review in many cases. We hope that this brochure will answer some of your questions. Please note that the information provided in this brochure does not constitute legal advice; instead, this is intended for general information only.

What is a Petition for Review?

A Petition for Review (PFR) is a written appeal of the decision that the Administrative Law Judge issues after an administrative hearing. The unemployment appeal hearings are over the phone, and you receive the decision in the mail or can access it through your PRISM portal shortly after the hearing. The decision is usually called an Initial Order or an Order Dismissing Appeal (Default). It will provide you with instructions to file an appeal, if you disagree with the decision.¹ Your Petition for Review may be a maximum of five pages.

How do I submit a Petition for Review?

An Initial Order or an Order Dismissing Appeal (Default) includes a page titled “YOU HAVE THE RIGHT TO APPEAL.” This generally appears on either the last page or second to the last page of your Initial Order. Please review and follow the instructions provided on that page. It will highlight the deadline to submit your Petition for Review (usually 30 days from the date of the Initial Order) and provide instructions on how to submit it.

What happens after I submit a Petition for Review?

When you submit your PFR, the Commissioner’s Review Office will mail you and any other parties in the case a copy of your appeal. This document is called Acknowledgement of Petition for Review. It will confirm that they received your appeal and provide any other parties in the case an opportunity to respond within 15 days. A response is optional. If you do not receive this confirmation letter within a week of submitting your PFR, call the Commissioner’s Review Office to confirm that they received your appeal. The Commissioner’s Review Office will not mail out an Acknowledgement if you are the only party in the case.

¹ An Order Dismissing Appeal (Default) will also provide an instruction to file an alternative appeal, which is called a Motion to Vacate. There will be a different deadline for that type of appeal. Please note that this guide will not discuss the Motion to Vacate.

A judge from the Commissioner's Review Office will review your PFR, any responses to your PFR, and exhibits from the administrative hearing. The Commissioner will also listen to the recording of the hearing. After reviewing everything, the judge will write and issue a decision.

Remember that this is a written appeal, so there will be no new hearing. Also, keep in mind that the Commissioner's Review Office is completely separate from the Office of Administrative Hearings.

Do I need to prepare anything to write my Petition for Review?

There is no formal preparation that needs to be done before writing your Petition for Review. However, below are some of our suggestions:

First, thoroughly review the Initial Order. The "Findings of Fact" explain the facts of the case as understood by the Administrative Law Judge (ALJ). The "Conclusions of Law" explain the legal reasons the ALJ is allowing or denying benefits. This section usually includes citation to laws that were used in making the decision. You can read the laws cited by the ALJ online.

- Revised Code of Washington (RCW) - <https://apps.leg.wa.gov/rcw/>
- Washington Administrative Code (WAC) - <https://apps.leg.wa.gov/wac/>
- Prior Decisions of Commissioner in unemployment benefits - https://govt.westlaw.com/wapcd/Index?__lrTS=20160628183455373

Second, you may also want to review a recording of the hearing if you would like to review exactly what was said at the hearing. The easiest way to access your recording is to create an account for the Office of Administrative Hearings' online portal called PRISM. Once an account is created, you can easily download the recording of the hearing.² If you need assistance in creating a PRISM account, you can contact the Office of Administrative Hearings (OAH) at 800-366-0955. If you are unable to create an account, please call OAH for further assistance.

What should I include in my Petition for Review?

Your Petition for Review is not required to be a formal letter. But, remember, you are only allowed a maximum of five pages. The following page is how ULP attorneys often format their Petition for Review.

² Note that the OAH PRISM portal is different from the portal where you submit weekly claims, which is the e-Services or SAW account provided by the Employment Security Department.

[the date you're writing PFR]

Commissioner's Review Office
Employment Security Department
PO Box 9555
Olympia, WA 98507

Re: [Your Name]

Docket Number: [your docket number]

Dear Commissioner:

This is a Petition for Review of the Initial Order dated [date of Initial Order] that denied my unemployment benefits because [why the ALJ said you were denied]. I request that the Initial Order be set aside and benefits be granted.

Relevant Facts: This section should provide background information for the Commissioner. Be aware that what you said and presented at the hearing are what the Commissioner will be looking at. If you were denied benefits because of a job separation, provide the sequence of events that led to the job separation. If you missed your hearing, explain why you missed the hearing. If you are submitting your Petition for Review late, explain why you missed the deadline to submit your Petition for Review.³

Issue on Appeal: This section should draw the Commissioner's attention to what specifically in the Initial Order you disagree with and why. You may list multiple arguments. If your benefits were denied because of a job separation, explain why you disagree with the decision. If you are denied because of not being able and available for work, explain what type of work you are able and available to perform. Usually, our attorneys organize this section by separating out each argument for why benefits should be allowed.

Conclusion: This section reiterates your request for benefits to be allowed. Many times, our attorneys include the statement that RCW 50.01.010 mandates that Title 50 must be liberally interpreted in favor of the unemployed worker.

Respectfully submitted,

[your signature here]

³ Please note, if you missed your hearing or are submitting your Petition for Review after the deadline, you must explain why. Failing to explain a late-submitted PFR or failing to attending the hearing may result in dismissal of your PFR. Also, you may want to explain the very compelling reason that made you unable to be at the hearing or file a timely Petition for Review. Generally, forgetting or calendaring incorrectly is not considered good reason for a late Petition for Review or for missing a hearing.

How long will it take to get a decision?

It depends. Generally, the Commissioner's Review Office will mail a decision within 4 weeks. However, it may take longer depending on their caseload. You may check with the Commissioner's Review Office to receive an update on the status of your case. Their phone number is 360-507-9709.

Is there anything to remember in submitting Petition for Review?

Make sure you are mindful of the deadline to file your Petition for Review. Missing this deadline can jeopardize your case. Also, you must follow the instruction provided in the Initial Order for how to file your appeal.

Here is a sample checklist of steps you should be sure you have taken in submitting your Petition for Review:

- 1. Petition for Review Deadline: _____
- 2. Preparing your Petition for Review:
 - a. Reviewed Initial Order?
 - b. Reviewed Record?
 - c. Reviewed Different Rules?
- 3. Reviewing your Petition for Review:
 - a. Does it include all relevant facts?
 - b. Does it explain why you missed your hearing? (if missed)
 - c. Does it explain why you are late in submitting your PFR? (if late)
 - d. Does it clearly state why you should be allowed benefits?
 - e. Have you signed your Petition for Review?
- 4. Submitting your Petition for Review:
 - a. Right mailing address? (if submitting by mail)
 - b. Right website? (if submitting electronically)
 - c. Was it received? (Acknowledgement if multiple parties or call)