

Appendix O: DUA Good Cause Guidelines**DIVISION OF EMPLOYMENT AND TRAINING
HEARINGS DEPARTMENT****GUIDELINES FOR DETERMINING GOOD CAUSE**

The following are guidelines for what constitutes good cause for failure to appear at a hearing. In determining good cause, Hearings Department staff may look for guidance to analogous regulatory and statutory provisions, such as 430 CMR s. 4.14.

GOOD CAUSE REASONS

- The hearing notice was not received by the appellant due to postal service failure, address error, or other reason beyond the appellant's control.
- The hearing notice was received late by the appellant due to postal service delay, address error, or other reason beyond the appellant's control, and the late receipt attributed to the appellant's failure to appear.
- An urgent situation arose on the day of the hearing that required immediate attention and prevented the appellant from notifying the Hearings Department of the appellant's inability to appear. Examples include, but are not limited to the following: family emergency, illness, accident, weather-related difficulties, incarceration, transportation difficulties.
- Death of a household member or an immediate family member (including a spouse, child, parent, brother, sister, grandparent, stepchild or parent of a spouse).
- The appellant was absent from the Commonwealth for the purpose of seeking employment between the date of the Notice of Hearing and the hearing.
- The appellant is unable to effectively comprehend English and is unable to find a suitable translator to explain the Notice of Hearing.
- The appellant arrived, with justifiable reason, after the ten-minute grace period. Examples include, but are not limited to the following: illness, accident, weather-related difficulties, transportation difficulties, unfamiliarity with the hearing location.

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- The appellant relied upon information from a DET employee and based on this information did not appear.
- Any other circumstance beyond the appellant's control which prevented the appellant from appearing at the scheduled hearing.

POSTPONEMENTS

Since parties may request a postponement of a scheduled hearing that conflicts with an earlier scheduled appointment of some importance, consideration should be given as to why the appellant failed to request a postponement. If the appellant responds to the Notice of Failure to Appear with a reason that would have allowed for a timely request for a postponement, the reason for the appellant's failure to request a postponement must be reviewed and considered. If necessary, Hearings Department staff should contact the appellant and obtain sufficient facts to establish whether the appellant has good cause for failure to request a postponement. If good cause is established, the default will be removed and a new hearing will be scheduled. If no good cause is found, the appeal may be dismissed.

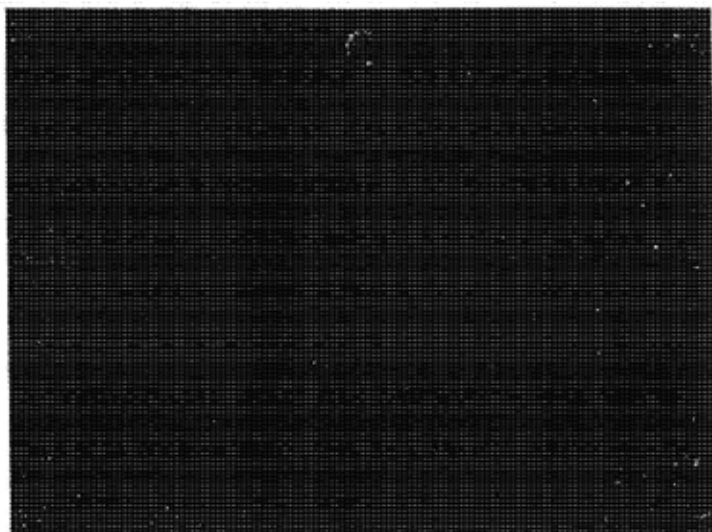
If the appellant responds with a good cause reason, such as a last minute emergency that prevented a request for a postponement, the default will be removed and a new hearing will be scheduled.

If an appellant defaults on a hearing for which a requested postponement was denied, the appeal may be dismissed.

LATE RESPONSE TO NOTICE OF FAILURE TO APPEAR

If the appellant responds with a good cause reason for non-appearance but the response is postmarked beyond the 10-day limit, the reason for the late response must be reviewed and considered. Examples of such good cause for late response include, but are not limited to the following: family emergency, illness or hospitalization, out of the area, late receipt of hearing notice, delay in having default notice interpreted.

HEARINGS DEPARTMENT CLERICAL PROCEDURES HANDBOOK



*Some good
and
guidelines
XIII-P3*

ISSUED BY HEARINGS
ADMINISTRATIVE UNIT
~~DECEMBER 1, 2000~~
FIRST EDITION

XIII
DEFAULTS-REMOVALS/
DISMISSALS

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DIVISION OF EMPLOYMENT & TRAINING
HEARINGS DEPARTMENT

DEFAULT REMOVAL/DISMISSAL POLICY

What is a Default?

A default occurs when an appellant (i.e., the party who filed the appeal and requested the hearing) either fails to appear for a scheduled hearing or arrives more than ten minutes late to the hearing. In such a case, no hearing is held. To notify the appellant that they are in default, the Hearings Department sends a "Notice of Dismissal for Failure to Attend a Hearing" (see sample at the end of this section).

Why is no hearing held without the appellant?

In accordance with current practice, an appellant must show that they are interested in the appeal in order for the hearing to go forward.

Why does the Hearings Department allow just ten minutes for the appellant to appear?

A ten minute "grace" period is allowed because hearings are allotted only one hour and most of that time is needed by the hearing officer to conduct a thorough hearing. Generally, a hearing officer is scheduled for five hearing per day. Waiting longer than ten minutes for an appellant who may not be interested in pursuing an appeal is not practical. If hearings did not begin on time, all subsequent hearings would be delayed and this, in turn, would cause customer service problems and further delays.

Is the default final?

If the appellant responds to the "NOTICE OF DISMISSAL" in writing within ten days from the mailing date of the NOTICE and includes good cause reasons for his or her failure to attend the hearing, the default is removed, and the appeal may be reinstated (see next section for further explanation of "good cause" reasons and the default removal policy). If the appellant responds late or does not provide good cause reasons, then the appellant is notified in writing that the dismissal is final.

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(see the next section for a further explanation of final dismissals). If the appellant does not respond at all, no further notice is sent. The "NOTICE of DISMISSAL" simply becomes final.

The Hearings Department will consider removing a default and rescheduling a hearing if a **WRITTEN** response...

- 1) Is received timely
- 2) Is received late due to documented mail delivery delay, **AND**
- 3) Demonstrates a good cause reason for missing the hearing.

TIMELY REQUEST

- A request will be considered timely if received postmarked by close of business on the 10th day after the "Default/Notice of Dismissal for Failure to Attend a Hearing" was mailed to the party. The following are EXCEPTIONS to the rule:
- If the 10th day falls on a Saturday, Sunday, or legal holiday, the request will be considered timely if received on the next business day.

If the request is received beyond ten days and the party indicates the reason for the late response is due to either non-receipt or late receipt of the "Default/Notice of Dismissal for Failure to Attend Hearing", the request will be considered timely.

IMPORTANT NOTE: If the appellant's written response contains insufficient information, is unclear, or confusing, attempts to contact the appellant by telephone shall be made. All attempts must be documented in the folder. If clarification is not received, the case may be dismissed.

~~GOOD CAUSE FOR REMOVAL OF DEFAULT~~

- The hearing notice was not received due to postal service failure (in this case, the party will be urged to provide a secondary address and to call the Hearings Department voice response system to check on the date of the hearing to prevent a second default for non-receipt of the hearing notice.

- The hearing notice was received late.
- An urgent situation arose on the day of the hearing that required immediate attention, such as illness, accident, weather related difficulties, incarceration, and prevented a request for postponement.
- An administrative DET error occurred which prevented the hearing from going forward.
- The party arrived beyond ten minutes past the scheduled time for the hearing for a justifiable reason (illness, accident, weather related difficulty, poor directions caused them to “get lost”).
- The party arrived at the wrong location for the hearing.
- The party called after the postponement deadline or on the day of the hearing with a stated urgent situation (illness, court appearance for which they could not provide documentation in time for the hearing to be postponed but they include such documentation with their response).
- A reasonable error on the appellant’s part – misreading the date or time of the hearing.
- The appellant relied upon information from a DET employee and based on this misinformation, does not attend the hearing.

{ ONLY THE CUSTOMER SERVICE REPRESENTATIVE OR THE PRINCIPAL REVIEW EXAMINER HAS THE AUTHORITY TO REMOVE A DEFAULT.

NOT GOOD CAUSE – RESPONSE TO STATEMENT ON FAILURE TO ATTEND A HEARING

A case may only be dismissed after consultation with the PRE for one of the below listed reasons.

- The response is late, regardless of the reason for the appellant’s non-attendance.
- If an appellant alleges a second non-receipt of notice, judgment should be

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exercised by the CSR or PRE.

- The party claims a non-urgent conflict (some examples of non-urgent conflicts may include business meetings, job interviews, routine medical appointments, training sessions, unavailability of witnesses or documents) prevented them from attending (the party may also have been denied a postponement for the same reason).
- The party has been denied a postponement for a non-urgent conflict.
- Late or non-receipt of hearing notice within the parties' control, e.g., mail not forwarded to correct department by company mail room, company shut down – mail not routed to appropriate personnel, claimant/employer moves and does not notify DET of new address or make arrangements to pick up mail.
- Failure to provide documentation (medical note, sudden court appearance) to substantiate that an emergency arose on the day of the hearing if the stated reason for non-attendance is due to an emergency.
- The explanation for the non-attendance conflicts with other reliable information (e.g., agent/attorney appears at hearing without appellant, gives reason for appellant's absence to hearing officer but in responding to the default the explanation differs from the reason given to the hearing officer).
- The appellant fails to explain the reason for non-attendance, rather, simply requests reinstatement.
- The appellant arrives for the hearing late for non-urgent reasons that should have been anticipated (routine traffic delays, public transportation delays). Some examples of urgent reasons may include extreme weather conditions, accidents, or serious public transportation difficulties – disabled trains.
- The appellant “forgot” the date of the hearing.
- Unavailability of an attorney when the appellant has not established they have made a reasonable, timely search for an attorney.
- The appellant does not attend due to a desire not to pursue the appeal at the time, but later determines that they are interested in the appeal.

INSTRUCTIONS FOR THE ISSUANCE AND DATA ENTRY OF REMOVAL/DISMISSALS

If a response to a default is timely and with good cause, a Response to Statement on Failure to Attend a Hearing notice must be typed, with the first box checked, and mailed to all parties (see sample at the end of this section). This notifies parties that the case will be reassigned for hearing and another notice mailed to all parties informing them of a new date and time of the hearing.

The case must then be reactivated and put back on the schedule. You must go into the UAPP screen on the UI system to add the appeal data again.

If the response to a default is not timely and does not provide good cause reasons, a Response to Statement on Failure to Attend a Hearing must be typed, with the second box checked, and mailed to all parties. This notifies the parties that the reasons given do NOT constitute good cause for failure to attend and that the case is being dismissed.

You must then go into the hearing system main menu, select the "F" screen and enter the date of dismissal in the amended mail date field. The case then gets filed in the completed case drawer under that date.

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Boston Regional Hearings Office
Charles F. Hurley Building
Government Center
Boston, MA 02114
Phone: 617/727-1301

RESPONSE TO STATEMENT ON FAILURE TO ATTEND A HEARING

APPEALING PARTY:

DOCKET NUMBER:

S.S. NUMBER:

DATE OF MAILING: 1/28/99

In response to a notice on your failure to attend a hearing, you submitted a statement containing the reasons for failing to attend the hearing on unemployment insurance.

- You are hereby notified that the reasons given DO constitute good cause for your failure to attend the previously scheduled hearing. The case will be reassigned for hearing and due notice will be sent to all parties.

- You are hereby notified that the reasons given DO NOT constitute good cause for your failure to attend the previously scheduled hearing. The case is hereby dismissed, (801 CMR 1.02 (10)(e) of the Standard Rules and Practice and Procedure).

Sharon Navarro
Principal Review Examiner

INTERESTED PARTY:

Commonwealth of Massachusetts

Argeo Paul Cellucci, Governor

Angelo Buonopane, Director Department of Labor & Workforce Development

John A. King, Deputy Director Employment and Training

Form 3701 Rev. 7-96

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Appellants occasionally respond to “Response to Statement on Failure to Attend a Hearing”. Although the Department is not required to respond in writing, a response is recommended for a persistent appellant (see sample form letter).

FORM LETTER TO BE ATTACHED TO THE APPELLANT’S COPY OF THE
DEFAULT REMOVAL IF APPELLANT DID NOT RECEIVE HEARING
NOTICE DUE TO MAIL DELIVERY PROBLEMS

The attached letter notifies you that a hearing will be rescheduled because you have indicated that you did not receive the previous hearing notice. Be advised that a hearing notice will be mailed approximately one week from today to the address you have provided. You are urged to contact the regional Hearings Department at (617) 727-6561 to hear recorded information about your new hearing date.

If you frequently experience mail delivery problems, you may wish to provide the Hearings Department with a secondary address for the receipt of the new hearing notice. If you notify the Department of the secondary address, a hearing notice will be mailed to this address in addition to the address originally provided.

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·FORM LETTER – ISSUED AFTER A DISMISSAL WHEN A SECOND INQUIRY IS RECEIVED

Date

Appellant name

Street Address

City, State, Zip

Re: Docket # _____
SS# _____

Dear Appellant:

Your response to a "Notice of Dismissal for Failure to Attend a Hearing" was received and carefully reviewed. The Hearings Department either did not consider your reasons for failing to attend the scheduled hearing to constitute good cause OR determined that your written response was not filed in a timely manner. The case was, therefore, dismissed in accordance with 801 CMR 1.02 10(e) of the Standard Rules of Practice and Procedure.

We regret to inform you that no further review will be conducted on this matter and the previous decision to dismiss the above referenced case remains in effect.

Sincerely,

Hearings Department

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Appendix P: Information on Pell Grants

Eligibility for Pell Grants and Other Financial Aid for UI Claimants

On May 8, 2009, President Obama announced that customers receiving unemployment insurance (UI) benefits will receive special consideration for financial aid to help defray the cost of education and/or job training opportunities. This action by the U.S. Department of Education and Department of Labor will enable more workers collecting unemployment insurance (UI) benefits to pursue job training to assist them in developing their skills while the economy recovers.

Pell Grants

You may be eligible for Federal Pell grants and other student financial aid to assist you in paying for education and/or job training.

The Pell Grant program is a post-secondary, educational grant program sponsored by the U.S. Department of Labor (USDOL). The grants can cover up to \$5,350 in education and training expenses and are accepted at nearly all universities and community colleges and many trade and technical schools. All Pell Grant awards are based on need and other factors. If you do not qualify for a Pell Grant, you may be eligible for other financial aid.

Please note: Pell Grants are only available for individuals enrolled at least half-time in an undergraduate degree or certificate program. It must also be noted that Pell grants *are not available* to individuals who have already received a bachelor's degree.

How to Apply for Financial Aid

Applying for financial aid and finding training opportunities is not difficult. The U.S. Departments of Education and Labor have created a single web site, www.opportunity.gov, where you can find helpful information. If you are interested in pursuing these opportunities, here are some helpful steps you should take:

- Decide what type of education or training best meets your needs. You may want to visit www.careeronestop.org, or visit your local community college or One-Stop Career Center for help in identifying potential opportunities. To locate the nearest One-Stop Career Center, you can visit www.mass.gov/careercenters or call the toll free number: **1-877-US-2-JOBS** (1-877-872-5627).
- Apply for financial aid. An application is available at www.fafsa.ed.gov or by calling **1-800-4-FED-AID**.
- After you've applied for financial aid and the education or training program of your choice, contact the program's financial aid office. You will be able to bring this letter to a financial aid office for up to 90 days from the date of this letter to verify your status as an unemployment insurance beneficiary. After the 90 days has expired, please contact our agency at (617) 626-6800 to receive current documentation of your unemployment status.