

## Railroad Retirement Board

## § 320.8

### § 320.6 Adjudicating office.

(a) The term “adjudicating office” means any subordinate office of the Board which is authorized to make initial determinations and reconsideration decisions with respect to claims for benefits. The following paragraphs state which offices of the Board are adjudicating offices and define their authority to make determinations or decisions.

(b) *Field offices.* Field offices are authorized to make initial determinations on the following issues relating to eligibility for unemployment or sickness benefits, as the case may be:

- (1) Availability for work;
- (2) Voluntary leaving of work, with or without good cause;
- (3) Failure to accept work or apply for work or failure to report to an employment office;
- (4) Timely registration for unemployment benefits under § 325.2 of this chapter and timely filing of claims for sickness benefits under § 335.4(c) of this chapter;
- (5) Receipt of remuneration for claimed days of unemployment or sickness, as the case may be;
- (6) Mileage or work restrictions and stand-by or lay-over rules;
- (7) Whether the claimant’s unemployment is due to a strike.

(8) Whether a claimant’s earnings attributable to days in a period for which he or she has registered for unemployment benefits exceed the amount of the applicable monthly compensation base.

(c) *Regional offices.* Board regional offices are authorized to make determinations on any of the issues listed in paragraph (b) of this section. In addition, regional offices are authorized to make initial determinations on the following issues:

- (1) Erroneous payment of benefits, including fraud;
- (2) Applicability of the disqualification in section 4(a-2)(iii) of the Railroad Unemployment Insurance Act if the claimant’s unemployment results from a strike against a non-railroad employer by which he is employed;
- (3) Determination of the amount of the Board’s claim for reimbursement from pay for time lost payments under section 2(f) of the Railroad Unemployment Insurance Act or damages for

personal injury under section 12(o) of the Railroad Unemployment Insurance Act.

(d) *Director of Operations.* The Director of Operations is authorized to make determinations on all issues of eligibility for unemployment and sickness benefits as set forth in paragraphs (b) and (c) of this section, and on any other issue not reserved to the Director of Policy and Systems by paragraph (e) of this section.

(e) *Director of Policy and Systems.* The Director of Policy and Systems shall adjudicate:

(1) The applicability of the disqualification in section 4(a-2)(iii) of the Railroad Unemployment Insurance Act if the claimant’s unemployment results from a strike against a railroad employer by which he or she is employed; and

(2) Whether a plan submitted by an employer or other person or company qualifies as a nongovernmental plan for unemployment or sickness insurance, within the meaning of part 323 of this chapter.

(f) *Debt Recovery Manager.* The Debt Recovery Manager shall adjudicate:

(1) All requests for waiver of recovery of an erroneous payment made under the Railroad Unemployment Insurance Act; and

(2) Offers of compromise of debts arising out of the benefit provisions of the Railroad Unemployment Insurance Act.

[53 FR 2486, Jan. 28, 1988, as amended at 60 FR 28534, June 1, 1995; 67 FR 77156, Dec. 17, 2002]

### § 320.8 Notice of initial determination.

(a) *Benefits payable.* If benefits are payable for a claim, no special notice of the award will be issued to the claimant. A notice of the award will be sent to the base-year employer(s). The amount of benefits due will be certified to the United States Treasury Department for payment.

(b) *Benefits not payable.* If an initial determination results in denial of a claim, either in whole or in part, the adjudicating office shall issue a notice of the denial within 15 days of the date that it makes its determination. The notice shall explain the basis for the denial of benefits and shall set forth

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what steps the claimant can take to contest the denial.

(c) *Communication of notice of denial.* When the adjudicating office mails the denial notice to the claimant's address of record, it shall be considered that notice of the denial has been communicated to the claimant on the date of mailing such notice. If the adjudicating office has been notified that a claimant has an attorney or other representative helping him or her with the claim, a copy of the denial notice shall be sent to the attorney or such other representative.

[53 FR 2486, Jan. 28, 1988, as amended at 56 FR 65679, Dec. 18, 1991]

### § 320.9 Notice of erroneous benefit payment.

(a) *Content of notice.* When an adjudicating office determines that benefits were paid erroneously, that office shall issue to the claimant a notice of the amount of the erroneous payment and the basis for the determination. The notice shall include a statement telling the claimant of his or her right to request reconsideration of the determination, of the provisions for waiver and of his or her right to request waiver.

(b) *Communication of notice of erroneous payment.* When the adjudicating office mails the erroneous payment notice to the claimant's address of record, it shall be considered that notice of the erroneous payment has been communicated to the claimant on the date of mailing such notice. If the adjudicating office has been notified that a claimant has an attorney or other representative helping him or her with the claim, a copy of the erroneous payment notice shall be sent to the attorney or such other representative.

[53 FR 2486, Jan. 28, 1988]

### § 320.10 Reconsideration of initial determination.

(a) *Request.* A claimant shall have the right to request reconsideration of an initial determination under § 320.5 of this part which denies in whole or in part his or her claim for benefits. A claimant shall have the right to request reconsideration of a notice of overpayment under § 320.9 of this part.

The base-year employer(s) shall have the right to request reconsideration of an initial determination under § 320.5 of this part which awards in whole or in part a claimant's claim for benefits. A reconsideration request shall be made in writing and addressed to the adjudicating office that issued the initial determination and must be received by the adjudicating office no later than 60 days from the date of the notice of the initial decision. A railroad employer may fulfill the written request requirement by using an electronic system that has been approved by the agency in the manner prescribed by the agency.

(b) *Review of evidence.* Upon request, the party requesting reconsideration shall have an opportunity to review all evidence and documents that pertain to the initial determination. The Board shall make all reasonable efforts to protect the identity of the source of adverse evidence.

(c) *Notice of decision.* The adjudicating office shall, as soon as possible, render a decision on the request for reconsideration. If a decision rendered by a district office, as the adjudicating office, sustains the initial determination, either in whole or in part, the decision shall be referred to the appropriate regional office for review prior to issuance. The party who requested reconsideration shall be notified, in writing, of the decision on reconsideration no later than 15 days from the date of the decision or, where the regional office has conducted a review of the decision, within 7 days following the completion of the review. If the decision results in denial of benefits, the claimant shall be notified of the right to appeal as provided in § 320.12 of this part. If the decision results in payment of benefits, the base-year employer(s) shall be notified of the right to appeal as provided in § 320.12 of this part.

(d) *Right to further review of initial determination.* The right to further review of a determination made under § 320.5 or § 320.9 of this part shall be forfeited unless a written request for reconsideration is filed within the time period prescribed in this section or good cause is shown by the party requesting reconsideration for failing to file a timely request for reconsideration. A railroad