

## Step 1: Notice of Appeal

1. **Purpose:** This document gives notice that you are appealing. It starts your case with the Colorado Court of Appeals.
2. **Deadline:** You have 21 days to get the Notice of Appeal to the Court of Appeals.

This time starts from the date that the Industrial Claim Appeals Office (ICAO) mails its final order. The Court does not have the authority to extend this deadline for **ANY** reason. Postmarked dates **do not** count toward meeting the filing deadline.

3. **Note to Employers:** In most cases, a company must use an attorney to file in the Court of Appeals. If the company meets one of the few exceptions, file a motion to ask permission to file without a licensed attorney. Be sure to read Colorado Revised Statute (C.R.S.) 13-1-127(2), (2.3) and (2.5), and the [available instructions](#).
4. **Winning the Appeal:** The statutes limit when the Court of Appeals may change the ICAO decision in your favor:
  - a. [Unemployment Compensation Benefits](#) (see C.R.S. 8-74-107):
    - i. ICAO acted beyond its statutory powers.
    - ii. The decision was procured by fraud.
    - iii. The findings of fact do not support the ruling.
    - iv. The decision is erroneous as a matter of law.
  - b. [Workers Compensation Benefits](#) (see C.R.S. 8-43-308):
    - i. There are insufficient findings of fact to allow review or the conflicts in evidence have not been resolved.
    - ii. The findings of fact are not supported by the evidence.
    - iii. The findings of fact do not support the decision.
    - iv. The decision is not supported by applicable law.
5. **No New Facts:** The Court of Appeals will consider only facts that were presented at the hearing. No new evidence will be accepted or considered.

6. **Missed Hearing:** If you missed your hearing, the only issue the Court of Appeals will consider is whether good cause was shown for missing the hearing. The Court will consider only the information you previously provided the ICAO on that subject.
7. **Dismissed Appeals:** If the ICAO dismissed your appeal for being late, or affirmed (upheld) a previous dismissal for being late, the only issue the Court of Appeals will consider is whether good cause was shown to file late. The Court will consider only the information you previously provided the ICAO on that subject.
8. **Arguments on Appeal:** If you are a self-represented party in an unemployment case, you have the option to make your arguments now, or to file those later in the appeal.
  - a. **Now:** If you would like to make your arguments now, fill out the combined [Notice of Appeal and Opening Brief form, JDF 664](#). By using this form, your appeal cannot be dismissed for failure to file an Opening Brief. Then, skip to the Step 4 - Reply Brief instructions.
  - b. **Later:** If you would like to complete your arguments later, file a [Notice of Appeal form, JDF 663](#). You will then make your arguments later in the case, in a separate Opening Brief. (See Step 2 Instructions).
9. **The Notice of Appeal Form, JDF 663:** see a [Sample Notice of Appeal](#) here.

#### Case Caption (1<sup>st</sup> Page)

- a. Fill in the case or docket number used by ICAO.
- b. Enter your name as the Petitioner.
- c. The Respondents in the case, in addition to the ICAO, are the other parties shown in the ICAO final order.
- d. Enter your name and contact information in the “Filing Party Name” box.
- e. Leave the “Court of Appeals Case Number” blank.

#### Body of the Notice of Appeal

- I. **Final Order:** Enter the date that ICAO mailed its final order. This date is found on the last page of the final order, in the “Certificate of Mailing” section.

- II. Case Background: In **one page or less**, give a summary of your case. This is just an overview of what your case is about. You will have the opportunity to fully explain your case and make your arguments later in the appellate process.
- III. Advisory Issues on Appeal: List the legal questions you want the Court of Appeals to answer. These are the errors you believe ICAO made in reviewing your case. For example:
1. Did ICAO err in deciding that I voluntarily left my job?
  2. Did ICAO err in applying C.R.S. 8-73-108(5)(e)(XIV) to disqualify me from unemployment benefits?
  3. Did ICAO err in ruling that I did not show good cause for missing my hearing?
- IV. Contact Information: List each party in the case, and:
- i. Mark whether the party has an attorney.
  - ii. If the party does not have an attorney, give that party's contact information.
  - iii. If the party has an attorney, list the attorney's name, bar registration number, address, phone number, and e-mail address.
  - iv. State if the other parties in the case have an attorney, then provide the contact information as you did above. If there are no other parties in the case, you may leave this section blank.
- V. Attachments: You **must** attach a copy of the ICAO's final order. Make sure to include every page, including the last page which contains the "Certificate of Mailing."
- VI. Sign and date the Notice of Appeal.

#### Certificate of Service

Certify the date that you mailed or hand delivered the Notice of Appeal and mailed copies to all other parties. Enter the addresses you used for each party. Sign this page.

- 10. Filing**: You must file the Notice of Appeal in the Court of Appeals. You may file in-person or by mail. If you file by mail, remember that **postmarked dates do not count** toward the filing deadline. Rather, the Court must **receive** the Notice of Appeal by the filing deadline. The address for the Court of Appeals is:

Clerk of the Court of Appeals  
2 East 14<sup>th</sup> Avenue  
Denver, CO 80203

**11. Service:** You must provide a copy of everything you file with the Court of Appeals to all opposing parties. If a party has a lawyer, send that party's copy to the lawyer. You may hand deliver those copies or place them in the regular mail.

You must also tell the Court of Appeals how and when you provided copies to the opposing parties. You do this in the Certificate of Service section of the form. Properly completing the Certificate of Service section of the form, or attaching a properly completed [Certificate of Service, JDF 662](#), to anything you file with the Court of Appeals, will prevent the dismissal of your appeal for failing to serve opposing parties.

You must send a copy of the Notice of Appeal to:

1. The Industrial Claim Appeals Office.
2. The Colorado Attorney General.
3. Each Respondent in the case.
4. The Division of Unemployment Insurance (unemployment cases only).

**12. Be Sure to Read:** Colorado Appellate Rules (C.A.R.) 3.1 and 32. Also read C.R.S. 8-74-107 (unemployment) or C.R.S. 8-43-308 (workers compensation). You may view these rules and statutes online at:

<http://www.lexisnexis.com/hottopics/colorado/>

### Appeal Steps:

- Step 1:** Notice of Appeal - Start of the appeal.
- Step 2:** Opening Brief - Written arguments for the appeal.
- Step 3:** Answer Brief - Written response to the appeal.
- Step 4:** Reply Brief - Written response to the Answer Brief.
- Step 5:** Opinion - The Court of Appeals decision.

### Next Step After Filing

Read the [Step 2 - Opening Brief instructions](#).