

## **UNEMPLOYMENT INSURANCE QUALITY APPRAISAL RESULTS: FY 92**

NOTE TO REVIEWERS: The narrative content for the "FY 1991 Quality Appraisal Results" was cleared approximately one year ago and comments received were considered and incorporated in that -publication. Hence, revisions based on reviewer concerns about the FY 1991 draft also appear in the FY 1992 draft.

For purposes of initiating clearance, the data presented in Chapter III, "Detailed Project Results," are from the FY 1991 final Quality Appraisal Results. Complete FY 1992 detailed project results data are not available as of this writing, but the FY 1991 data presented closely illustrates the format that will be used for FY 1992 data. FY 1992 data will appear in the final results report for this Chapter.

Both the format and the narrative content of the FY 1991 and FY 1992 versions of "Quality Appraisal Results" are expected to be essentially the same.

PERFORMANCE MEASUREMENT REVIEW (PMR)  
PHASE I. PROJECT DESIGN

I. Background.

The PMR project was initiated in 1988 to examine, evaluate, and improve the mechanisms for performance measurement in UIS oversight of State Unemployment Insurance (UI) programs. The project envisioned three stages. The first stage, a design stage, defined performance measures to be field tested. Subsequent stages are field testing of the proposed performance measures to determine value and operational feasibility and finally, nationwide implementation of measures.

A. Project Objectives. The specific objectives of the PMR project are to:

1. Review the Secretary of Labor's legal responsibilities for the UI program and to ensure they are identified and monitored;
2. Identify gaps and overlaps which now exist in assessing SESA performance and recommend solutions;
3. Identify and justify alternative methods of evaluating SESAs1 UI performance;
4. Examine and establish new methods of measuring performance and determine, where appropriate, what constitutes a minimum level of performance;
5. Examine linkages between components of the UI oversight program;  
and
6. Develop and recommend a comprehensive oversight system integrating findings and results of the components of the overall UI program.

B. Project Criteria. The following criteria have been used during the process of decision making in order to come up with measures that are directed toward improved performance of the system:

1. Criticality - Fulfilling the Secretary's essential legal oversight responsibilities.
2. Management-Oriented - Capable of providing timely detection of performance problems that can serve as the basis for management action. The measures should, therefore, relate to operations and be useful to managers to improve

performance. This criterion relates closely to the criterion of continuous improvement espoused by Total Quality Management.

3. Operationally Feasible - Capable of operating within cost and resource constraints and can be obtained as a byproduct of operations in the SESAs.

4. Customer-Oriented - Defining and measuring quality service to claimants and employers.

5. Outcome Focused - Failing to achieve a desired level of performance, such as timely payments, should trigger a more thorough analysis of detailed data and/or review of the administrative processes employed by a SESA.

6. Quantitatively Based - Measures are objective and free from discretionary judgment as much as possible.

7. Statistically Valid - Employing sampling methods which provide confidence in the results.

C. Development of Measures. Following the initial performance period of the PMR project (see UIPL No. 13-91), Macro International, Inc., was selected to provide contractor support to the PMR project in the fall of 1990. As technical advisors to the contractor, twenty-one SESA representatives served as state Experts or Service Area Specialists in the area of benefits, adjudications, appeals and benefit payment control. In addition, a Federal Steering Committee was established composed of a representative from each of the 10 Federal Regions as well as National Office experts in the areas of Federal legislation, Regional Office operations, Benefit Quality Control, appeals, nonmonetary determinations and benefit payment control. Subsequently, several meetings of the PMR Steering Committee, the State Expert Panel and State Service Area Specialists were held. These meetings involved the review and development of performance measures including reaction to contractor-developed materials and proposals. In addition, discussion sessions were held across the country in order to obtain Regional and State perspectives on changes needed in the Quality Appraisal system.

The process which resulted in the selection of measures for the field test began with a review of statutory requirements in order to determine gaps in the measurement process. The process then involved soliciting State suggestions on needed changes, brainstorming and refining alternatives and finally selecting the final measures for testing.

D. State Participation. The State Employment Security Agencies (SESAs) have contributed significantly to the results of this process during Phase I, the design stage. Recommendations received from SESAs in response to UIPL No. 10-89, dated January

4, 1989, were considered as the work progressed. SESA representatives, from most States, attended meetings in the fall of 1990 on ways the current Quality Appraisal (an existing performance measurement system) could be modified. Finally, twenty-one SESA experts and service area specialists served on a contractor panel at UIS1 request to provide and react to proposals.

E. Accomplishments. Work to meet the objectives of the PMR project is well underway. The legal responsibilities of the Secretary for the UI program have been identified. Several gaps (and some overlaps) have been identified regarding SESA performance and solutions to these gaps are proposed in the measures. Alternative methods of evaluating SESAs' UI performance have been developed and examined, particularly in the service areas of benefits, adjudication and lower authority appeals. Also, the examination of the linkages between components of the UI oversight program has begun.

The following contractor reports have been submitted by the contractor and accepted by the Department of Labor: (1) a Recommended Alternatives Report (June 1991) and (2) a Selected Alternatives Report (November 1991).

## II. Status.

### A. The Design Stage.

- The development of measures to be field tested — is largely complete. This stage will be followed by a field test of selected alternative measures.
- The measures listed in this UIPL are still subject to comment. Comments received from within the Federal-State UI partnership on the proposed measures will be considered to identify changes, if any, needed in the measures to be tested.

### B. Field Test.

- The field test will include up to six States and will run for 15 months to secure 12 months of performance data concerned with timeliness and selected quality data. The data collected during the first 3 months will be used to ensure that the procedures are in place. The schedule will allow data collection over a full 12-month cycle.

In addition to the collection of performance data, field test States will collect information on costs and potential uses of the data for State management purposes.

One of the participating States will also serve as host State. The host State will secure an evaluation contract with an independent research contractor who will design, monitor and evaluate the field test and provide specified logistical support.

- The objectives of the field test are to: (1) evaluate the usefulness of the revised measures in evaluating State performance; (2) determine that the needed information can be obtained in an efficient manner; (3) determine changes in the revised measures, if needed; (4) devise a method for data validation; and (5) provide a basis for establishing an approach to the development of benchmarks of minimum performance, if deemed appropriate.
- Plans call for Cooperative Agreements to be signed with the States selected to field test by September 30, 1992.
- As stated in the objectives above, data gathered during the field test will be used to determine if changes are needed in the measures before the final performance measures are agreed upon and implementation begins.

C. Implementation. Finally, there will be a phased-in period for implementation of revised performance measures (dates yet to be determined).

### III. UIS Executive Decisions. Phase I, the Design Stage

Decisions reached (see Section IV) can be described as incremental change within a modified Quality Appraisal system. That is, certain changes in the system will be tested to determine the improvements that might be achieved through use of these measures.

The selected alternative measures will achieve one or more of the following objectives: a) overcome a gap in the oversight system; b) provide timely information to Federal and State management which can foster continuous improvement; c) strengthen the statistical validity of the performance data; d) direct the UI system toward better customer service by a focus on outcomes while retaining some process information to identify the source of problems; and e) strengthen or change existing scoring instruments (review guides) based on current experience.

A. General Direction. A goal of the Department of Labor and the Unemployment Insurance Service is the establishment of an integrated, rationalized and comprehensive oversight system, that will not only serve the Secretary's responsibilities

for oversight, but will also assist States to continuously improve the way they operate.

This system will integrate the current Benefits Quality Control and Quality Appraisal systems, as well as the planned Revenue Quality Control program. Optimally, this integrated system will also result in revised report requirements, which eliminate duplication, and also contain reports validation features, which assure the quality of data used for oversight and for decisions on continuous improvement.

Resource constraints and the magnitude of the tasks involved prevent the UIS from implementing such a system in a single step. Instead, UIS will utilize a building block approach, which will address a particular aspect of change or modifications required in the oversight system. The changes proposed for certain Quality Appraisal measures represent one of these changes. Other components of the oversight system, which will be addressed in the next year or two, are:

1. Benefits Quality Control will be examined to determine if any modification in design is warranted. The review will weigh experience to date, the need for assessing the accuracy of other claims (e.g., denials), and resource constraints;
2. Revenue Quality Control, currently not part of the PMR process, will produce a set of measures to evaluate State UI tax operations — thus, PMR has concentrated on the benefit payment process, rather than on the tax collection process;
3. Cash Management will establish minimum satisfactory levels of performance to be subsequently incorporated;
4. Higher Authority appeals quality measures will be addressed in subsequent time frames due to several considerations including effective administration of selected measures. Field testing will be delayed until a method is developed to effectively administer them;
5. Benefit Payment Control and Program Reviews (UCX, UCFE, EB, DUA, TRA, Interstate) will be examined in the future and incorporated, when ready; and
6. The Workload Validation process will be evaluated in conjunction with reports validation concepts arising from reviews of required reports and from the Revenue Quality Control effort. A revised workload/reports validation system to support all UIS oversight systems will be developed.

B. Selected Measures. This section lists timeliness and quality measures recommended for field test. Additional field test information is listed in Appendices 1-3.

1. Timeliness Measures. Timeliness measurement is important to the UI System to ensure that the "payment when due" provision (section 303(a)1) of the Social Security Act is met.

The measures selected fill in gaps in the current system. Transactions which are currently excluded from performance measurement will be included. For example, in the area of first payments, all first payments will be measured rather than only those first payments for a week of total unemployment. In adjudication the measurement goes beyond the four issues currently defined for workload purposes to include all adjudications. Other measures will examine certain aspects of the program not currently covered, such as continued claim payments, redeterminations, and implementation of adjudications and appeals decisions.

All timeliness measures will be based on universe data rather than on samples. The results will therefore be more accurate, more comprehensive in scope, and, by the use of automation, more-cost effective. The distribution for each timeliness measure (except for decision implementation) will be drawn from automated records and reported monthly by the States. The timely availability of data for analysis is expected to facilitate oversight and the goal of continuous improvement. Finally, where applicable, the universe of cases measured for timeliness is the frame for the selection of a sample used to measure the adjudication; lower authority appeals; and CWC transfer, billing and reimbursement quality. The following defines the timeliness measures selected by the UI service for field testing. (See Appendix 1)

a. First Payment Timeliness (Initial Claims). The length of time from the end of the first (earliest) compensable week in the benefit year to the date the payment is issued is measured. This includes all payments, e.g., total, part-total and partial. Currently, the measurement is restricted to the first payment issued for a week of total unemployment.

b. Continued Claim Payment Timeliness. The length of time from the end of each week paid (whether total or partial) to the date the check was issued. This measure includes all weeks paid subsequent to the first week compensated in the benefit year. This is a new measure.

c. Adjudication Timeliness. The length of time to adjudicate all statutory issues which have the potential to adversely affect claimant benefit rights. Currently, the performance is measured by a sample of 125 additional claims and

weeks claimed issues which excludes new claims issues. This definition is expanded to include all claims issues.

d. Adjudication Implementation Timeliness. The length of time between the date that the adjudication decision is issued and the date the outcome is applied to the claim record. This is a new measure to determine the length of time it takes to implement the determination outcome to the claim record and to ensure the obligation under the Java decision to pay benefits as soon as administratively feasible following the determination that eligibility is met. This information will be collected in the field test from the sample of decisions measured for quality.

e. Adjudication Redetermination Timeliness. Two measures are being tested: 1) time lapse between the end of the week affected by the redetermination and the date that the redetermination was issued; and 2) time lapse between the date the redetermination was requested and the date the redetermination is issued. These are new measures which gather universe information on the impact of redeterminations on time lapse.

f. Lower Authority Appeals Timeliness. The length of time between the date that the request for hearing is filed and the date the decision is issued. No change from the current measure.

g. Lower Authority Decision Implementation Timeliness. The length of time between the date that the decision is issued and the date the outcome is applied to the claim record. This is a new measure to determine compliance with the obligation to implement an administrative decision promptly. This information will be collected during the field test from the sample measured for quality.

h. Higher Authority Appeals Timeliness. The length of time between the date the request for a Higher Authority appeal is filed and the date that the decision is issued. No change from the current measure.

i. Combined Wage Claims - Wage Transfer Timeliness. The length of time between the date that the transfer request is received and the date that the data which completes the transfer are sent to the paying State. No change from the current measure.

j. Combined Wage Claims - Billing Timeliness. The length of time from the end of the calendar quarter to the date that reimbursement requests (billings) were mailed to the transferring States. Universe data obtained from the paying State's CWC records will be measured rather than a sample as is currently done.



k. Combined Wage Claims - Reimbursement Timeliness. The length of time from the date that the transferring State receives the reimbursement request to the date that payment is mailed to the paying State. Universe data will be used rather than a sample as is currently done.

2. Quality Measures. The quality measures proposed for field testing are: 1) Adjudications Quality, 2) Lower Authority Appeals Quality and 3) Combined Wage Claim Quality. A measure of the quality of Higher Appeals was considered, but not selected for field testing due to the need to do further work on the measure itself, as well as on the implementation of the measure.

a. Adjudication Quality. The measure for adjudication would build on and improve the current Quality Performance Index (QPI) measurement system. The definition of adjudication quality is the assessment of the likelihood that a State is adequately adjudicating a preset percentage of all issues.

The proposed adjudications measurement review system is intended to improve the current system, as follows: First, it broadens the range of adjudication decisions reviewed beyond the 4 categories currently reviewed to the universe of decisions measured for time lapse. Sixty cases per State would be selected at random from all decisions issued during the immediately preceding quarter. Second, the scoring system would continue to provide information for each of the key factors of quality but would move from a numeric system to an easier to understand pass/fail system. Further, all evaluation criteria would be given equal weight which increases the importance of the adequacy of the written determination. A revised adjudication format is provided in Appendix 2.

b. Lower Authority Appeals Quality. The measure for Lower Authority Appeals Quality also builds on the current Quality Appraisal measure while making certain improvements.

Lower Authority Appeals Quality is defined as: (1) the numerical assessment of the quality of the hearing, and (2) whether due process was provided. Both measures will be field tested. A concern with the current scoring system is that it is possible for a case that does not provide due process to obtain a passing score.

The proposed Lower Authority appeals measurement would provide two measures of performance. First, a case cannot be rated as adequate (providing a fair and impartial hearing) unless all of the due process elements pass. Second, changes have been made to improve the current appeals quality assessment instrument. These changes, recommended by SESA Appeals staff in Region X and

reviewed by the contractor's State Expert Panel and Service Area Experts, have been accepted by UIS. The instrument will be scored: (1) numerically to measure the quality of the hearing and (2) pass/fail for measuring "due process". The revised instrument and scoring sheet is located in Appendix 3.

A random sample of twenty appeals decisions will be selected and analyzed each quarter. The sample frame will include both single and two-party appeals. Withdrawals, dismissals and no-shows (where one party does not appear) will be excluded from the sample frame.

c. Contained Wage Claim (CWC) Quality. This performance indicator also builds on the current Quality Appraisal experience. The measures of CWC will assess the accuracy of wages transferred, billing of charges, and reimbursement by participating States. We anticipate that quality will be assessed during the field test based on a randomly selected quarterly sample of twenty for each type of transaction.

3. Scoring Consistency/Rereview. The PMR recommendations significantly strengthen the existing Quality Appraisal quality measurement process by ensuring consistency in scoring between SESAs within a Region and between Regions. In the area of adjudications, the Regional Office will review a subsample of the individual cases as scored by the SESAs to ensure consistency in scoring between SESAs within the Region. In turn, the National Office will review a subsample of the individual cases scored by each Regional Office to ensure scoring consistency between the Regional Offices.

For Lower Authority appeals quality, consistency is improved through: (1) statistically valid random sampling at the SESA level, and (2) an annual review by UIS of a randomly selected subsample of SESA scored cases.

The Appendix material which follows contains measures to be tested and scoring information for adjudication and Lower Authority appeals. This information is included in the "Selected Alternatives Report" submitted to the Unemployment Insurance Service by Macro International Inc. on November 22, 1992.

Appendix 1. Selected Measures for Field Test

Appendix 2. Adjudication Scoring Format

Appendix 3. Lower Authority Appeals Evaluation Instrument and Scoring Sheet

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## Appendix 1

### Selected Measures for Field Test

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Measure:	First Payment Timeliness (Initial Claims)
Definition:	The length of time from the end of the first (earliest) compensable week in the benefit year to the date the payment is issued.  Includes all payments whether partial or total.  Excludes retroactive payment for compensable waiting period
Data Source:	Universe of first payments
Computation:	Start date: end of first compensable week End date: date check was issued
Reporting Intervals:	7, 14, 21, 28, 35, 42, 49, 56, 63, 70, 70+ Days
Reporting Categories:	Report separately for; Intrastate UI, UCFE, UCX, CWC. Interstate UI, UCFE, UCX, CWC
Reporting Frequency:	Monthly

Measure:	Continued Weeks Payment Timeliness
Definition:	The length of time from the end of the continued week claimed (whether total or partial) to the date the check is issued.  Applies to weeks paid subsequent to the first week Compensated in the benefit year
Data Source:	Universe of continued weeks paid
Computation:	Start date: end of last week for which claim was filed  End date: date check was issued
Reporting Intervals:	7, 14, 21, 28, 35, 42, 49, 56, 63, 70, 70+ Days
Reporting Categories:	Report separately for: - Intrastate UI, UCFE, UCX, CWC - Interstate UI, UCFE, UCX, CWC
Reporting Frequency:	Monthly

Measure:	Adjudications Timeliness
Definition:	The length of time to adjudicate all statutory issues which have the potential to adversely affect claimant benefit rights.
Data Source:	Universe of Adjudications
Computation:	Start date: week ending date of first claimed week of unemployment affected by decision  End date: date determination decision is issued
Reporting Intervals:	7, 14, 21, 28, 35, 42, 49, 56, 63, 70, 70+ Days
Reporting Categories;	Report separately for: Intrastate UI, UCFE, UCX, CWC - Seps & Nonseps Interstate UI, UCFE, UCX, CWC - Seps & Nonseps Multi-Claimant Labor Dispute Multi-Claimant "Other"
Reporting Frequency:	Monthly
Notes:	Applies to all adjudications

Measure:	Adjudication Implementation Timeliness
Definition:	The length of time from the date of determination to the date the outcome is applied to the claim record.
Data Source:	Adjudication quality sample
Computation:	Start date: date determination issued End date: date outcome applied to claim record
Reporting Intervals:	0, 1, 2, 3, 4, 4-1- Days
Reporting Categories:	Report separately for: Intrastate UI, UCFE, UCX, CWC - Seps & Nonseps Interstate UI, UCFE, UCX, CWC - Seps & Nonseps Multi-Claimant Labor Dispute Multi-Claimant "Other"
Reporting Frequency:	Quarterly
Notes:	: Provides measurement to assess how prompt SESA is in updating claim record to either authorize or stop payment based on determination issued.

Measure:	Adjudication Re-determination Timeliness
Definition:	The length of time to issue a re-determination of the initial adjudication.
Data Source:	Universe of Re-determinations
Computation:	Start date: date re-determination is requested Start date: week ending date of first week affected by the re-determination  End date: date re-determination is issued
Reporting Intervals:	7, 14, 21, 28, -35, 42, 49, 56, 63, 70, 70+ Days
Reporting Categories:	Report separately for: Intrastate UI, UCFE, UCX, CWC - Seps & Nonseps Interstate UI, UCFE, UCX, CWC - Seps & Nonseps Multi-Claimant Labor Dispute Multi-Claimant "Other"
Reporting Frequency:	Monthly
Notes:	Applies to all adjudications.
	Two start dates employed: (1) date re-determination requested, and (2) week ending date of first week affected by the re-determination



Measure:	Lower Authority Appeals Timeliness
Definition:	The length of time from the date the request for hearing is filed to the date the decision is issued.
Data Source:	Universe of Lower Authority Appeals Decisions
Computation:	Start date: date the appeal is filed. End date: date notice of final decision is issued
Reporting Intervals:	30, 45, 60, 75, 90, 120, 120+ Days
Reporting Categories:	Report separately for: Intrastate UI, UCFE, UCX, CWC - Seps & Nonseps Interstate UI, UCFE, UCX, CWC - Seps & Nonseps Multi-Claimant Labor Dispute Multi-Claimant "Other"
Reporting Frequency:	Monthly
Notes:	Include remanded and reopened cases. If a case is remanded from Higher Authority Appeals for a new hearing and decision by the Lower Authority, the clock starts on the date the case is remanded from the Higher Authority.

Measure:	Lower Authority Decision Implementation Timeliness
Definition:	The length of time from the date the decision is issued to the date the outcome is applied to the claim record.
Data Source:	Lower Authority Appeals Quality Sample
Computation:	Start date: date decision is issued End date: date outcome applied to claim record
Reporting Intervals:	0, 1, 2, 3, 4, 4+ Days
Reporting Categories:	Report separately for: Intrastate UI, UCFE, UCX, CWC - Seps & Nonseps Interstate UI, UCFE, UCX, CWC - Seps & Nonseps Multi-Claimant Labor Dispute Multi-Claimant "Other"
Reporting Frequency:	Quarterly
Notes:	Provides measurement to assess how prompt SESA is in updating claim record to either authorize or stop payment based on decision issued.

Measure:	Higher Authority Appeals Timeliness
Definition:	The length of time from the date the request for a Higher Authority appeal is filed to the date the decision is issued.
Data Source:	Universe of Higher Authority Appeals Decisions
Computation:	Start date: date the appeal is filed. End date: date notice of final decision is issued
Reporting Intervals:	45, 60, 75, 90, 120, 150, 180, 210, 240, 270, 300, 330, 360, 360+ Days
Reporting Categories:	Report separately for: Intrastate UI, UCFE, UCX, CWC - Seps & Nonseps Interstate UI, UCFE, UCX, CWC - Seps & Nonseps Multi-Claimant Labor Dispute Separations Multi-Claimant Nonseparations
Reporting Frequency:	Monthly
Notes:	Include remanded and reopened cases  If a case is remanded to the Lower Authority for additional evidence and then case returned, the Higher Authority clock keeps running.  If a case is remanded to the Lower Authority for a new hearing and decision, the clock stops.

Measure:	Combined Wage Claims - Wage Transfer Timeliness
Definition:	The length of time from the date that the transfer request is received to the date that the data which completes the transfer is sent to the paying State.
Data Source:	Universe of transfers completed during the quarter from the transferring State's files
Computation:	Start date: date the transfer request is received  End date: date that the data which completes the transfer is sent to the paying State
Reporting Intervals:	3, 6, 10, 14, 21, 28, 35, 42, 49, 56, 63, 70, 70+ days
Reporting Categories;	Not Applicable (N/A)
Reporting Frequency:	Quarterly
Notes:	Only change from existing measure, as reported on ETA 586, is an increase in the number of intervals.

Measure:	Combined Wage claims - Billing Timeliness
Definition:	The length of time from the end of the calendar quarter to the date that reimbursement requests (billings) were mailed to the transferring States.
Data Source:	Universe of billings by the paying State for benefits paid during a given quarter
Computation:	Start Date - end of calendar quarter End Date - date that reimbursement requests were mailed to transferring States
Reporting Intervals:	14, 28, 42, 56, 56+ Days
Reporting Categories;	N/A
Reporting Frequency:	Quarterly

Measure:	Combined Wage Claims - Reimbursement Timeliness
Definition:	The length of time from the date that the transferring State receives the reimbursement request to the date that payment is mailed to the paying State.
Data Source:	Universe of reimbursements made by the transferring State
Computations:	Start date - date the transferring State receives the reimbursement request  End date - date payment is mailed to the paying state
Reporting Intervals:	14, 28, 42, 56, 56+ Days
Reporting Categories:	N/A
Reporting Frequency:	Quarterly

Measure:	Adjudication Quality
Definition:	The assessment of the adequacy of adjudications.
Data source:	Sample from the adjudications timeliness universe
Computation:	Each case scored as Pass/Fail. Failure of one element causes case to fail.
Reporting Intervals:	N/A
Reporting Categories:	Report separately for: Intrastate UI, UCFE, UCX, CWC - Separations & Nonseparations Interstate UI, UCFE, UCX, CWC - Separations & Nonseparations Multi-claimant Labor Dispute Multi-claimant "Other"
Reporting Frequency:	Quarterly

Measure:	Percent of cases scored Pass/Fail using the Lower Authority Appeals quality assessment instrument.
Definition:	Assessment of the quality of the hearing and whether or not due process was provided.
Data Source:	Sample of appeal decisions (single and two party) issued in a quarter. Excludes withdrawals and dismissals.
Computation:	Scored pass/fail re: 8 due process elements. Numeric scoring of all elements.
Reporting Intervals:	N/A
Reporting Categories:	Report separately for: Intrastate UC, UCFE, UCX, CWC - Seps & Nonseps Intrastate UC, UCFE, UCX, CWC - Seps & Nonseps Multi-claimant Labor Dispute Multi-claimant "C".her"
Reporting Frequency:	Quarterly



Measure: Combined Wage Claims - Quality of Wage Transfers

Definition: Assessment of the propriety of the wages transferred by the transferring State.

Data Source: Sample of universe of wage transfers. Computation: Percentage of transfers properly completed.

Reporting Intervals: N/A

Reporting Frequency: Quarterly

Notes: Propriety as defined by 20 CFR 616.9 (a) & (b)

Measure: Combined Wage claims - Billing Quality

Definition: Assessment of the propriety of the billing of charges by the paying State

Data Source: Sample of universe of charges billed Computation: Percentage of charges properly billed.

Reporting Intervals: N/A

Reporting Frequency: Quarterly

Notes: Propriety as defined by 20 CFR 616.8 (f)

Measure: Combined Wage Claims - Reimbursement Quality

Definition: Assessment of the propriety of reimbursements by the transferring State.

Data Source: Sample of universe of reimbursements made by the transferring State.

Computation: Percentage of reimbursements properly made.

Reporting Intervals: N/A

Reporting Frequency: Quarterly

Notes: Propriety as defined by 20 CFR 616.9 (c)

## **Appendix 2**

### **Adjudications Quality**

Note: This is a prototype of what an adjudications summary report might look like. Scoring instructions and a user guide must be developed before any review for adjudication quality can be undertaken.

## ADJUDICATION QUALITY - UIS PERFORMANCE MEASUREMENT

STATE \_\_\_\_\_ Report code. \_\_\_\_\_  
 Report Period: Calendar Year \_\_\_\_\_ Quarter ending \_\_\_\_\_

Case no	1	2	3	4	5	6	7	8	9	10
Local Office										
Decision Date										
Adjudicator										
Issue										
Reviewer										
<b>WRITTEN DOCUMENTATION OF FACTFINDING [pass or fail]</b>										
Claimant Information										
Employer Information										
Other Information										
Required Rebuttals										
<b>CLAIM DETERMINATION [pass or fail]</b>										
Clearly written and understandable										
Eligibility outcome correctly stated										
Key eligibility facts are supported										
Decision reflects state policy										
Adequate appeal information										

### Decision Implementation

Accurate? yes/no										
Time lapse? days										

**Scoring Key for FACTFINDING & DETERMINATION - P=Pass F = Fail Scoring Key for Components::: NR - Element not required IS = Inadequate-unacceptable-insufficient-incomplete IN = Missing - no attempt to obtain data was documented**

# **Appendix 3**

## **Lower Authority Appeals Quality**

# **APPEALS QUALITY PACKAGE CRITERIA AND GUIDELINES**

## **LOWER AUTHORITY**

### **HEARING**

#### **1. Notice of Hearing: (2)**

Does the notice of hearing clearly identify the parties, the date, time and place of hearing and the issues to be addressed or was there an informed waiver?

Good (6):

The hearing notice clearly lists all parties to whom the hearing notice was mailed. It need not list the agency as a party. The date and time are clear and the place of hearing is adequately described. In case of a telephone hearing, the method of appearance is clearly explained, e.g., "Parties should call the toll free number above at least 15 minutes before the hearing to notify the Hearing Officer of the number to be called for hearing." No deduction will be made if the place of hearing is listed as "Employment Security Office, 1100 W 10, Jasper, MA." A room number or reference to hearings room is not necessary.

The issues must be sufficiently clear so as to allow the parties to adequately prepare for hearing, e.g., "Should claimant be disqualified from benefits because of his separation from work."

Fair (3) :

The notice does not clearly identify parties or does not clearly state the issue, e.g., "should the September 25, 19\_ examiner's decision be affirmed?"

Unsatisfactory (0):

The notice of hearing does not identify the parties or does not state the issue so that the parties can understand it.

#### REFERENCE NOTES - QUESTION 1.

The intent of this question is to ensure that the parties have adequate notice of the hearing and opportunity to prepare for the hearing. The notice should state the other parties that have been given notice of the hearing and in case of a telephone hearing information should be given on how to appear.

## **Lower Authority Appeals Quality\_\_\_\_\_Appendix 3(2)**

A "Good" is given if the hearing notice covers all of the required information and does so in a way that can be understood by the parties.

A "Fair" rating is given if the notice gives the general date, time and place information but does either not list what parties have been given notice or does not clearly state the issue. Reference back to the decision appealed is not sufficient to meet the notice requirement.

This criterion will not be scored down in those situations where notice was given and there was subsequent waiver of notice and the hearing was held on issues other than those set forth on the notice. The same is true where, in emergency situations, a hearing may be held without written notice.



**Lower Authority Appeals Quality**\_\_\_\_\_ **Appendix 3(3)**

2. Pre-hearing/pre-testimony explanation. (2)

At the start of the hearing, did the Hearing Officer clearly explain the procedures to be followed?

Good (6):

Before testimony was taken, the hearing office explained: (a) the purpose of the hearing, (b) the order of testimony, (c) the right to question witnesses, and (d) asked if any of the parties had any questions before proceeding with the hearing.

Fair (3):

The Hearing Officer explained two or more of the above.

Unsatisfactory (0):

The Hearing Officer did not explain two or more of the above.

REFERENCE NOTES - QUESTION 2

This explanation and opportunity for questions may be included in the opening statement (Question 3)".

The intent of this question is to ensure that the parties understand how the hearing will be conducted and the rights and opportunities they will have to participate in the hearing.

A "Good" score will be given if the Hearing Officer covers all of the elements set forth above. The elements shall be covered in the taped prehearing explanation or in a taped opening statement. The explanation must be clearly stated and delivered in an understandable manner.

The "Fair" score will be given if the Hearing Officer covered two or more of the elements.

An "Unsatisfactory" score will be given if the Hearing Officer does not cover two or more of the elements or if the explanation is not tape recorded.

Rapid or "machine gun" opening statements should be scored down to fair or unsatisfactory based on its understandability or ability of the parties to assimilate the information being provided.

A concurrence that the explanation was done off the tape recorded portion of the hearing would result in an unsatisfactory score.

3. Opening statement. (2)

Did the opening statement set forth the identity of the parties and participants at the hearing, the date, the place of hearing, the Hearing Officer, the decision appealed, and the issues to be considered at the hearing?

Good (6):

Before taking testimony the Hearing Officer: (a) identified him or herself, (b) identified the persons present at the hearing, (c) stated the date and place of hearing (or that it was a telephone hearing), (d) identified the decision appealed and the issues that would be considered.

Fair (3):

The Hearing Officer did not do one of the above elements.

Unsatisfactory (0):

The Hearing Officer did not do two or more of the above elements.

REFERENCE NOTES - QUESTION 3.

The intent of this question is to ensure that the Hearing officer clearly sets forth the administrative details and/or case history at the beginning of the hearing. An explanation of issues must be more than just a statement of the decision appealed, ie, a brief explanation of the elements of the law, such as "to establish that the claimant was discharged for misconduct, the employer has to show ....".

## Lower Authority Appeals Quality

## Appendix 3(5)

### 4. Exhibits. (2)

Did the Hearing Officer handle exhibits correctly?

#### Good (6):

The Hearing Officer correctly handled exhibits in that s/he:

(a) described and marked all exhibits.

(b) allowed parties to review the exhibits and offer objections. When a party appears by telephone and a document is read into the record as a proposed exhibit, the party was allowed to offer objections to the document.

(c) authenticated offered exhibits (to the extent possible) where questionable or challenged. Documents which are not "part of the agency file" may need proper foundation.

(d) received all competent, relevant and reasonably available exhibits.

(e) gave an explanation if s/he denied admission of any of the proposed exhibits.

(f) ruled on the admissibility of any documents read into the record as proposed exhibits.

#### Fair (3):

The Hearing Officer received all competent relevant and reasonably available exhibits and showed them to the parties, but did not fully describe them or correctly mark them. The Hearing Officer provided the parties with an opportunity for questions and rebuttal as to their contents.

#### Unsatisfactory (0):

The Hearing Officer (a) denied the introduction of exhibits without giving an appropriate reason(s) for such denial, or (b) did not show exhibits received to the other parties, or (c) failed to enter agency exhibits which were referred to in hearing or decision and which were competent, relevant and material.

#### Did not occur (6):

There were no exhibits tendered, marked or introduced, or no documents made reference to in statements or testimony that should have been marked or introduced.

**Lower Authority Appeals Quality** \_\_\_\_\_ **Appendix 3(6)**  
REFERENCE NOTES - QUESTION 4.

The intent of this question is to ensure that the Hearing Officer builds as complete a record as possible including the utilization of all competent, relevant, and material exhibits that are available; that the exhibits are properly described, authenticated, marked and entered into the record, and that the parties are made aware of their contents and provided with the opportunity to object, explain or rebut. The requirements are the same for in-person and telephone hearings. Telephone hearing exhibits will be sent to each of the parties prior to the hearing and, if a party does not have all of the documents marked as exhibits, the matter may be continued to allow opportunity to review and object. (See Question 18)

In either an in-person or telephone hearing the parties should be offered the opportunity to see and review the documents or to be mailed the documents and offer post-hearing objections if provided for in the appeals process.

The exhibit should be described sufficiently to identify it for the record. It should be authenticated (to the extent possible) if it is suspect or challenged. It is not necessary to authenticate agency documents created or obtained in the claim processing, such as fact finding or separation reports. The hearing officer shall determine the weight given challenged agency documents.

The record should reflect that the parties had an opportunity to review the exhibits prior to their being received into evidence. The Hearing Officer may state "I have allowed the parties to read and review the documents that I have marked as exhibits" or ask the question of the parties, "Mr. Claimant, have you had the opportunity to read the letter I marked as Exhibit 1?" The record must affirmatively show that the parties were given the opportunity to examine the document.

The exhibit should be clearly marked with the exhibit number or identification. It should be received if competent and relevant if there are no objections, or after the objections have been ruled on.

The Hearing Officer should assume the responsibility to introduce on his/her own motion exhibits that are competent, relevant, and material to the issue but are not introduced by the parties. Common among these would be documents that are in agency files. It is important to realize that the Hearing Officer cannot consider in his/her decision-making process any document that was not properly entered.

Jurisdictional documents, such as the decision appealed, the request for hearing and the notice of hearing, need not be entered as exhibits because they are not really considered in the

**Lower Authority Appeals Quality\_\_\_\_\_Appendix 3(7)**

decision-making process. The score will not be reduced if the Hearing Officer marks or fails to mark them. If the jurisdictional documents are material to the disposition of the case, they must be entered as exhibits, such as the request for hearing when the issue is whether the request for hearing was timely filed.

5. Witnesses. (2)

Were witnesses called, sworn and the evidence developed in logical order?

Good (6):

The order was reasonable and flexible depending on the circumstance of each case. Unless a fixed order was necessary, generally the party with the most knowledge proceeded first. For example: in voluntary quit issues, the claimant proceeded first; in misconduct issues, the employer proceeded first.

The Hearing Officer also generally avoided jumping back and forth between witnesses and issues. A brief question of the party not testifying to clarify an issue or to determine whether further foundation or explanation was necessary will not result in deduction.

Fair (3) :

The Hearing Officer permitted the introduction of some testimony in illogical sequence, but did not substantially jeopardize the organization of the hearing and the presentation of evidence.

Unsatisfactory (0):

The Hearing Officer did not call witnesses or did not swear in witnesses or did not take evidence in logical order.

Did not occur (6):

The evidence was submitted without witnesses or sworn testimony.

REFERENCE NOTES - QUESTION 5.

The intent of this question is to move the hearing to a conclusion in a logical and orderly manner. Therefore, as a general rule, the party with the most information should be called to testify first. However, the Hearing Officer should be allowed to exercise reasonable discretion in directing the order which must be flexible and dependent upon the particular circumstances of each case.

If a State has a court ruling or some other authority which dictates the order of proof, then that ruling takes precedence and must be applied. The rating should be "Good" where it has been applied.

Witnesses must testify under oath or affirmation. In distinguishing between the "Good" and the "Fair" rating, the evaluator must decide whether the. Hearing

## **Lower Authority appeals Quality\_\_\_\_\_Appendix 3(9)**

Officer exercised reasonable discretion in determining the order of proof. That decision generally should be based on who is most knowledgeable about the case. The order should produce an easy flow of information and fact finding without the Hearing Officer resorting to aimless jumping back and forth between witnesses.

The "Fair" rating should be scored where the Hearing Officer failed to meet the "Good" criteria in some instances, but in a manner which did not seriously affect the fact-finding process. However, for the most part the Hearing Officer adhered to a logical sequence of testimony.

For the "Unsatisfactory" rating, the Hearing Officer lacked sound judgment in the order of proof, thereby prolonging the hearing unnecessarily, failed to swear in a witness(s), or jumped back and forth between witnesses and/or issues.

## Lower Authority Appeals Quality

## Appendix 3(10)

### 6. Order of Testimony from Each Witness. (3)

Was evidence from each witness developed in a logical order?

Good (3) :

As each witness testified, the evidence was developed in a logical and orderly manner, although the Hearing Officer was flexible as required by the circumstances.

Fair (1):

The Hearing Officer permitted the introduction of some -evidence in illogical sequence, but did not substantially jeopardize the organization of the hearing and the presentation of evidence. The Hearing Officer generally completed one line of inquiry before moving on.

Unsatisfactory (0):

The Hearing Officer did not take the evidence in logical order and sequence.

### REFERENCE NOTES - QUESTION 6.

The intent of this question is to move the testimony of each witness to a conclusion in a logical and orderly manner.

Witnesses must testify under oath or affirmation. In distinguishing between the "Good" and the "Fair" rating, the evaluator must decide whether the Hearing Officer exercised reasonable discretion in determining the order and sequence of the testimony. The order should produce an easy flow of information and fact finding without the Hearing Officer **or** the witness resorting to aimless jumping back and forth between areas of the testimony.

""The "Fair" rating should be scored where the Hearing Officer failed to meet the "Good" criteria in some instances, but in a manner which did not seriously affect the fact-finding process.

For the "Unsatisfactory" rating, the Hearing Officer lacked sound judgment in allowing or directing the testimony, thereby prolonging the hearing unnecessarily, failed to swear in a witness(s), or jumped back and forth between elements of testimony with the witness.



7. Questions of own witness. (1 with mid range score)

Did the Hearing Officer provide parties and representatives with a timely opportunity to question their own witnesses?

Good (9):

Where necessary, the Hearing Officer informed the parties that they or their representatives could question witnesses in the party's own behalf. Where necessary, he or she assisted such party or representatives in framing questions and cautioned them not to make statements or arguments.

Fair (3):

Although the Hearing Officer advised parties who were not represented by counsel that they could question their own witnesses, s/he failed to assist when appropriate, or they were not allowed to question their own witnesses in a timely manner.

Unsatisfactory (0): F

The Hearing Officer failed to provide parties the opportunity to question their own witnesses.

Did not occur (9):

The parties did not have witnesses to question or it was not necessary to inform them of this right, e.g., a party was represented by counsel or an experienced representative.

REFERENCE NOTES - QUESTION 7.

The intent of this question is to ensure that the Hearing Officer has provided the parties or their representatives the right to question their own witnesses in a timely manner as some parties may be unaware of this right.

It is also the responsibility of the Hearing Officer to provide the parties with whatever assistance they need to question witnesses in a timely and proper manner.

8. Clear language. (2)

Throughout the hearing, did the Hearing Officer use language that was clear and understandable, avoiding unnecessary legal phrases and technical language?

Good (6) :

The Hearing Officer's language was clear and understandable in all but inconsequential instances. There was no unnecessary use of legal phrases or technical language.

Fair (3):

There were minor instances when the Hearing Officer's language was not clear and understandable or legal phrases or technical language was used. "Minor instances" would be confined to those that would not have a significant bearing on the outcome of the case.

Unsatisfactory (0):

The Hearing Officer's language was not clear and understandable in significant and critical areas or unnecessary legal phrases and technical language was used.

REFERENCE NOTES - QUESTION 8.

The intent of this question is to ensure that all language to participants is clear and understandable and not misinterpreted and that they are not confused by or not able to understand legal phrases or technical language.

References to form numbers and agency jargon should be avoided.

## Lower Authority Appeals Quality

## Appendix 3(13)

### 9. Single point questions. (2)

Did each question of the Hearing Officer express only one point?

#### Good (6):

The Hearing Officer's questions expressed only one point and, if more than one point was expressed, it was corrected.

#### Fair (3):

Occasionally, the Hearing Officer asked a question with more than one point, but it did not interfere with the development of the testimony.

#### Unsatisfactory (0) :

The Hearing Officer repeatedly asked questions containing two or more points and confused the witnesses.

#### REFERENCE NOTES - QUESTION 9.

Questions should express one point only so that neither the question nor the answer will be misunderstood. For example, a compound question such as "Was John Doe your supervisor and did he discharge you?" would be unlikely to produce a clear answer. Hearing officers should avoid compound questions and carefully tailor the questions to express one point only.

**Lower Authority Appeals Quality\_\_\_\_\_Appendix 3(14)**

10. Clarification of conclusionary statements. (2)

Did the Hearing Officer attempt to clarify conclusionary statements, opinions and ambiguous or unclear testimony?

Good (6):

When the witness responded with an opinion or conclusion, the Hearing Officer made a reasonable effort to develop the factual basis for the opinion or conclusion. When the testimony was not entirely clear or was ambiguous, the Hearing Officer questioned the witness(es) in a conscientious attempt to get specific, clear responses.

Fair (3):

The Hearing Officer asked some questions of witnesses, but did not make a reasonable effort to clear up relevant opinions, conclusions, ambiguities or unclear testimony.

Unsatisfactory (0):

The Hearing Officer's questioning of witnesses disregarded conclusionary statements, ambiguities or unclear testimony that was relevant, or dealt with them in an obviously inadequate manner.

Did not occur (6):

There were no conclusionary statements or opinions and the testimony was clear and unambiguous and did not need clarification.

REFERENCE NOTES - QUESTION 10.

The intent of this question is to ensure that the Hearing Officer fulfills his/her obligation to require lay witnesses to testify to evidentiary facts, as distinguished from conclusions. For example, if the witness says that the claimant was discharged for excessive absenteeism, this would be a conclusionary statement. The Hearing Officer would be responsible for getting the witness's testimony reflecting the factual basis for this conclusion.

All opinions expressed by lay witnesses should be subjected to thorough questioning to establish the facts used as a basis for the opinions whenever the statements are germane to the decision. Opinion evidence by expert witnesses is admissible to meet the necessity of providing to the Hearing Officer the aid of those especially qualified by education, background, experience<sup>1</sup>, training and

## **Lower Authority Appeals Quality\_\_\_\_\_Appendix 3(15)**

study to express an opinion on questions of facts relating to their particular skills. An example being a qualified employment service representative who testifies on labor market conditions.

However, it is important that the Hearing Officer establish, on the record, what the expert witness's background is and that they qualify as an expert. The difference between "Good" and "Fair" is that the latter score is applied when the Hearing Officer occasionally overlooks clearing up ambiguities, conclusionary testimony, etc. An "Unsatisfactory" mark is given if the Hearing Officer accepted opinions or conclusions of the witnesses without asking the factual basis.

11. Confrontation. (1)

Was there opportunity for confrontation of all opposing witnesses?

Good (9):

Each party had the opportunity to be present during the giving of all testimony affecting him/her and to confront all opposing witnesses (use of telephone hearings where all parties have the opportunity to participate and hear the witness(es) satisfies the confrontation requirement).

Fair (X) :

Not applicable.

Unsatisfactory (0): F

The Hearing Officer denied the opportunity for confrontation.

Did not occur (9):

There were no opposing witnesses.

REFERENCE NOTES - QUESTION 11.

The intent of this question is to ensure fulfillment of the due process right to an opportunity to know all of the evidence presented by opposing parties.

Excluding witnesses does not conflict with the requirements of this question unless the witness happens to be an "interested party" (claimant or employer).

12. Cross-examination. (1 with mid range score)

Did the Hearing Officer afford a timely (before testimony from another witness) opportunity to cross-examine, properly control cross-examination, and provide appropriate assistance where necessary?

Good (9) :

The Hearing Officer provided the parties their right to timely cross-examination of the opposing witnesses, provided assistance in framing questions as necessary, and limited it to permissible bounds. When the parties made statements instead of asking questions, the Hearing Officer assisted the party in forming the statement into a question unless it was very clear that the party had no questions but wanted to testify.

Fair (3):

The Hearing Officer informed the parties of their right to cross-examination, but either did not control it or did not provide assistance that was needed in framing questions or s/he stated in one sentence, "Do you want to ask questions or make a statement?" The Hearing Officer cut people off who were clearly making a statement without helping them form the statement into a question, provided it is clear the party wanted or needed to get additional information from the witness.

Unsatisfactory (0): F

The Hearing Officer failed to afford the parties their right to timely cross-examination or it is obvious the party did not know how to form questions and gave up out of frustration.

Did not occur (9):

There were no opposing witnesses.

REFERENCE NOTES - QUESTION 12.

The intent of this question is to ensure that all parties are afforded the right to cross-examine opposing witnesses.

Cross-examination is a fundamental right, and not a mere privilege. It is not diminished by reason of the fact that the parties are unrepresented by counsel. If an unrepresented party appears to be unable to comprehend the term, it is necessary to provide them with that right anyway, but it should be expressed in lay language, such as, "Do you want to ask Mr. Jones any questions about any of the testimony he just gave?" If an unrepresented party is incapable of cross-examining properly (for example, instead of asking questions s/he makes statements and seems unable to change), the Hearing

Officer must assist by framing questions for the party.

The right to cross-examine should be offered immediately after the witness testifies, and it should not be delayed until all the witnesses for one side have concluded their direct testimony.

However, the right to cross-examination may be restricted, as for example, when it becomes unduly repetitious. Moreover, the cross-examiner should not be permitted to unduly harass, argue with or badger the witness.

The distinction between "Good" and "Fair" is that the latter score is given if the cross-examiner is permitted to harass the witness to a limited extent, or if the cross-examination is allowed to continue excessively, or if the Hearing Officer fails to provide meaningful assistance to lay persons.

An "Unsatisfactory" score is given if the Hearing Officer fails to provide cross-examination rights, or fails to provide them immediately after direct examination, or fails completely to keep the questioner from unduly and excessively badgering the witness, or the Hearing Officer lets a lay person flounder without giving assistance that is clearly needed.



13. Repetitive testimony. (3)

Did the Hearing Officer control the undue extension or repetition of testimony so as to keep the hearing moving expeditiously?

Good (3):

The Hearing Officer diplomatically informed the witnesses that repetitious and prolonged testimony was not necessary and added nothing to the hearing. The Hearing Officer did not question witnesses excessively or permit undue repetition or extension of testimony by witnesses or duplication of witnesses, and testimony was limited to the issues.

Fair (1):

The Hearing Officer indulged in or allowed testimony that was repetitious, prolonged or irrelevant, but it did not burden the record and did not affect the final decision.

Unsatisfactory (0):

The Hearing Officer permitted persistent repetition of testimony, prolonged testimony, or permitted irrelevant testimony; the Hearing Officer repeatedly asked repetitious questions of the witness.

REFERENCE NOTES - QUESTION 13.

This criteria is intended . to keep hearings moving along expeditiously. The Hearing Officer is bound not to belabor the witnesses with repetitious questions or remarks and to keep the witnesses from indulging in irrelevant, immaterial, and/or unduly repetitious testimony.

The score is based upon the extent that this type of testimony is permitted.

**16. Off the record. (2)**

Did the Hearing Officer effectively control "going off the record" and handle correctly on the record matters that occurred or were discussed off the record?

**Good (6):**

The Hearing Officer went off the record or granted an application to do so for good and sufficient purposes. The Hearing Officer allowed no one else to go off the record but himself/herself. On resuming the record, the Hearing Officer summarized the essentials of what took place and obtained the concurrence of the parties. On turning over the tape or putting in a new tape, the Hearing Officer stated s/he was going off the record to change tape and when returning to the record, stated that the tape had been replaced and that nothing relating to the hearing had transpired in the process (concurrence is necessary). If the tape ran out unexpectedly creating a gap in the record, the Hearing Officer repeated or asked the last speaker to repeat the missing portion of the statement. In these instances, concurrence of the witness and parties is required.

**Fair (3):**

The Hearing Officer allowed parties to go off the record without establishing good and sufficient cause, but the Hearing Officer did summarize for the record the off-the-record discussion.

**Unsatisfactory (0):**

The Hearing Officer went off the record and failed to summarize on the record what happened off the record or failed to repeat questions or testimony when the tape unexpectedly ran out or failed to get concurrence from the parties.

:

**Did not occur (6):**

The Hearing Officer did not go off the record for any reason.

**REFERENCE NOTES - QUESTION 16.**

The intent of this question is to build a record that is totally complete and without unexplained interruptions. Any interruption or break in the record must be covered by the Hearing Officer. The Hearing Officer may hear and grant a motion to go off the record from either of the parties.

A "Good" score is warranted when the Hearing Officer: (a) goes off the record or grants an application to do so only for good and sufficient reasons; (b) allows no one to go off the record without his/her permission except when beyond his control, such as with

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machine failure; and (c) summarizes the off-the-record discussion and events and obtains the concurrence of the parties to the summary upon resuming the record.

A "Fair" score should be given if the Hearing Officer allows parties to go off the record without establishing good and sufficient reason for doing so.

An "Unsatisfactory" score should be given if the Hearing Officer went off the record and failed to summarize on the record what happened while off the record or failed to get a concurrence of the parties if the record was summarized.

17. Interpreters. (2)

Did the Hearing Officer utilize interpreters correctly?

Good (6):

When necessary, the Hearing Officer gave clear instructions to the interpreter as to how to interpret and administered a special interpreter's oath. When necessary, the Hearing Officer established on the record that the interpreter was fluent in both languages. The Hearing Officer must require that the interpretation be word for word to the extent possible as it was spoken in the foreign language.

Fair (3) :

The Hearing Officer did not give clear instructions to the interpreter as necessary, but corrected the interpreter on errors committed.

Unsatisfactory (0):

The Hearing Officer (a) did not give an interpreter's oath, or (b) failed to take reasonable steps to ensure that the translation accurately reflected the testimony.

Did not occur (6):

An interpreter was not used.

REFERENCE NOTES - QUESTION 17.

The intent of this question is to ensure that the testimony is accurately interpreted. The interpretation should be word for word to the extent possible as it was spoken in the foreign language.

For example, if the interpreter says, "He said that ....," the interpreter is not translating word for word; the interpreter should translate in the first person as the witness testifies.

A "Good" score is warranted if the Hearing Officer gave clear instructions to the interpreter as to how to interpret. A "Good" score should also be given for those hearings wherein a "qualified" interpreter was used and no instructions were necessary and in those States that give the instructions before going on the record. In addition to giving clear instructions when necessary, a special interpreter's oath is to be administered in order to receive a "Good" score.

A "Fair" score should be given if the Hearing Officer administered the special interpreter's oath but failed to give instructions to the interpreter when necessary? however, the Hearing Officer did

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correct the interpreter on errors committed thereby ensuring an accurate translation.

An "Unsatisfactory" score should be given if the Hearing Officer failed to administer the special interpreter's oath or failed to take reasonable steps to ensure that the translation accurately reflected the testimony.

18. Continuances. (3)

After the hearing had begun did the Hearing officer use good judgment as to continuances?

Good (3) :

The Hearing Officer granted a necessary continuance when requested by either party or upon his/her own motion.

Fair (1):

The Hearing Officer granted a continuance where the need for such action was doubtful and not fully supported by the record.

Unsatisfactory (0):

The Hearing Officer granted a continuance for insufficient reasons or failed to order a continuance when necessary.

Did not occur (3) :

A continuance was not requested or appropriate.

REFERENCE NOTES - QUESTION 18.

The intent of this question is to curtail unwarranted -continuances that unreasonably delay the disposition of cases and to ensure that those necessary are granted. If new material matters develop in the course of a hearing, which a party is unprepared to meet and the element of surprise is present, it is necessary to order a continuance to afford an opportunity for preparation (unless the right to a further hearing is waived). If parties to a telephone hearing are not furnished copies of exhibits, a continuance may be necessary to allow opportunity to review and object to the documents. (See Question 4)

A "Good" score is warranted when the Hearing Officer granted a -continuance only for good and sufficient reasons that were fully supported by the record.

A "Fair" score should be given if the Hearing Officer granted a continuance and the need for such action was doubtful.

An "Unsatisfactory" score should be given when the Hearing Officer granted a continuance for reasons that were insufficient and not supported by the record; or the Hearing Officer did not order a continuance when one was needed.

## Lower Authority Appeals Quality

## Appendix 3(29)

### 21. Attitude. (2)

Did the Hearing Officer create an atmosphere that allowed all parties and representatives to speak freely in an orderly manner as to the issues in the case and not interfere with the development of the case by gratuitous comments or observations.

#### Good (6) :

The Hearing Officer made a reasonable effort to make the parties feel at ease in making statements and in developing their case and made no inappropriate comments.

#### Fair (3) :

The Hearing Officer did not consistently make reasonable efforts to make all parties feel at ease in making statements and in developing their case and made some inappropriate comments, but this did not affect the outcome.

#### Unsatisfactory (0) :

The Hearing Officer's attitude was antagonistic or indifferent (bored, uninterested) or s/he made gratuitous comments or observations.

#### REFERENCE NOTES - QUESTION 21

The intent of this question is to ensure that the Hearing Officer makes an effort to place the parties at ease to the extent possible. It is important that parties feel that they had a fair hearing, as well as one be provided. The Hearing Officer must leave them with the impression that a fair decision will be reached.

The principal difference between the "Good" and the "Fair" score is the consistency and care of the Hearing officer in endeavoring to make the parties feel at ease, and in providing assistance as needed. If the Hearing Officer's attitude was consistently antagonistic or indifferent, the question should be scored "Unsatisfactory."

## Lower Authority Appeals Quality

## Appendix 3 (30)

### 22. Bias and prejudice. (1)

Did the Hearing Officer conduct the hearing in an impartial manner?

Good (9):

The Hearing Officer did not appear to demonstrate bias or prejudice toward any participant in the hearing. The intensity of questioning, type of questions asked, or the treatment of the participants, did not indicate bias or prejudice.

Fair (X):

Not applicable - Do not use.

Unsatisfactory (0): F

The Hearing Officer appeared to demonstrate bias or prejudice toward a participant, or the Hearing Officer's actions were reasonably perceived as doing so.

### REFERENCE NOTES - QUESTION 22.

The intent of this question is to ensure that the Hearing Officer conducted the hearing in a fair and impartial manner. When it appears that the Hearing Officer treated a participant in a negative or demeaning manner because of the participant's career field, status, beliefs, appearance, age, sex, religious beliefs, or other protected civil rights, the question shall be scored unsatisfactory.

The Hearing Officer must control the hearing and ask hard questions and be persistent in clarifying or determining the truth of a statement. At times one party may require more assistance than the other. Maintaining control and asking questions does not excuse tyrannizing the party or witness. By the same token, offering assistance in a way that clearly is demeaning and disparaging would result in an unsatisfactory score.



**Lower Authority Appeals Quality\_\_\_\_\_ Appendix 3(27)**

**19. Closing hearing. (2)**

Did the Hearing Officer properly conclude the hearing by ascertaining whether the parties had anything to add?

Good (6):

The Hearing Officer asked the parties at the end of the hearing if they had anything further to say.

Fair (3):

The Hearing Officer made a statement that the hearing was closed unless the parties stated that they had something further to say.

Unsatisfactory (0):

The Hearing Officer failed to ask this question at the conclusion of the hearing.

REFERENCE NOTES - QUESTION 19.

The intent of this question is to ensure that the parties have a full and ample opportunity to present all of the information pertinent to their case.

This question is important especially in those cases where the parties are not represented by counsel. Affording the parties an opportunity to state anything additional at the conclusion of the hearing aids all subsequent reviewers of a case in their consideration of allegations contending that a party to a case was not allowed to state everything they wanted to present. Any wording which the Hearing officer chooses to use to accomplish this result is permissible. The question will not be scored down for curtailing repetitive or irrelevant statements.

The difference between the "Good" rating and the "Fair" rating is that by using the type of wording in the "Fair" category, the Hearing Officer may appear to be adopting a negative approach, and may possibly defeat the purpose and intent of the question by inviting a "no" response.

An "Unsatisfactory" score should be given when the Hearing Officer ends the hearing abruptly without affording the parties a final opportunity to make additional statements.

**Lower Authority Appeals Quality\_\_\_\_\_Appendix 3(28)**

20. Hearing within scope of issues. (1)

Did the Hearing Officer conduct the hearing within the scope of the issues raised by the notice of hearing, and within the issues as finally developed at the hearing, giving proper notice of new issues?

Good (9) :

The Hearing Officer conducted the hearing within the scope of the issues specifically raised by the notice of hearing and explained other issues that arose, as well as the right to a continuance to meet any new issues. If the Hearing Officer took up new issues, a knowledgeable waiver of notice was obtained before going to the merits. No deduction will be made for inquiry intended to assist in issue identification, in determining relevance, for impeachment or for credibility assessment.

Fair (X) :

Not applicable - Do not use.

Unsatisfactory (0) : F

The Hearing Officer did not conduct the hearing within the scope of the issues raised. The Hearing Officer did not identify new issues which arose and which were explored or, having identified and explored such issues, failed to explain the right to a continuance to meet them, or the necessity to waive notice in order to proceed with the new issue (s).

REFERENCE NOTES - QUESTION 20.

The intent of this question is to limit the hearing to the issue or issues set forth in the hearing notice or to obtain an informed waiver of notice before considering a new issue. The question will not be scored down if a party testifies or tries to testify about an issue not before the Hearing Officer. This is not a control of hearing question. If a new issue arises during the hearing, the Hearing Officer must inform the parties that there is a new issue which could affect entitlement to benefits and that it needs to be covered (State law will determine whether the Hearing Officer has jurisdiction or must remand) . The parties must be advised of how resolving the issue would affect them, that they can proceed with the case or request a continuance to prepare for hearing on the new issue. If they elect to proceed with no continuance, then their election to waive notice must be on the record.

## Lower Authority Appeals Quality

## Appendix 3(31)

23. Obtain reasonably available evidence. (1 with mid range score)

Did the Hearing Officer attempt to obtain the reasonably available, competent evidence necessary to resolve the issues in the case?

Good (9):

The Hearing Officer obtained competent evidence, reasonably available and necessary to resolve the issues in the case.

Fair (3):

The Hearing Officer obtained most of the evidence necessary to resolve the issues of the case and the omissions were not prejudicial to the outcome of the case.

Unsatisfactory (0): F

The Hearing Officer did not make a sufficient record to render a decision, because s/he did not obtain sufficient, competent, available evidence to resolve the issues in the case.

### REFERENCE NOTES - QUESTION 23.

The intent of this question is to ensure that the Hearing Officer functions as a fact-finder.

It is the responsibility of the Hearing Officer to develop all the evidence that is reasonably available and to make a decision according to the dictates of the State law. "Reasonably available" means that evidence or testimony which is available at hearing and which is critical to the issues to be decided.

In applying this criterion, consideration must be given to the adequacy of the Hearing Officer's development of the evidence on each issue: Was it sufficient to secure evidence that was necessary and reasonably available?

DECISION

24. Issues clearly stated. (3)

Were the statutory issues involved clearly and simply stated in the decision?

Good (3):

Early in the decision, a full statement was made, in simple language, of all the statutory issues in the case.

Fair (X):

Not applicable - Do not use.

Unsatisfactory (0):

The Hearing Officer either omitted to state all the issues, or did so in an involved way, or in a manner making them incomprehensible.

REFERENCE NOTES - QUESTION 24.

The intent of this question is to ensure that there is a clear understanding of what the decision concerns. The Hearing Officer should communicate the issues clearly and effectively to the interested parties and other readers. A further objective is to make sure that the reader knows early in the decision just what is being decided, and to establish the boundaries of the decision beyond which the Hearing Officer should not go without explanation and valid reason.

At the beginning of the decision, under the first heading of "issues," or included in the history of the case, or in the first paragraph, the issue or issues to be decided should be stated in simple terms for clear understanding and should include all the elements of the applicable provision(s). Such statement need not be in the precise language of the statute. For example, the decision may say, "The issue in this case is voluntarily leaving the most recent employment without good cause." Include the words "suitable," "most recent," or "good cause," or whatever is pertinent to the provision.

**Lower Authority Appeals Quality\_\_\_\_\_Appendix 3(33)**

25. Findings supported by substantial evidence. (1)

Accepting the Hearing Officer's judgment of credibility, unless it is manifestly without basis, were the findings of fact supported by substantial evidence in the hearing record?

Good (9) :

The findings of fact which were made were supported by substantial evidence.

Fair (X):

Not applicable - Do not use.

Unsatisfactory (0): F

The findings of fact which were made were not supported by substantial evidence.

REFERENCE NOTES - QUESTION 25.

The intent of this question is to ensure that the findings of fact are supported by evidence in the record and it is of sufficient quality (substantial evidence) and quantity (more than a mere scintilla) to support the findings.

In answering this question, it is not decided whether all the necessary findings of fact were made, but whether the findings of fact made by the Hearing Officer are supported by substantial evidence in the hearing record. See Question 26 for findings of fact.

Only evidence that is properly entered into the record and that which is officially/administratively noticed can be considered as a basis for the findings of fact.

The weight the Hearing Officer gives to the evidence, and, in the case of contradictory evidence or testimony, the Hearing Officer's judgment of credibility should be accepted unless it is entirely without basis or is clearly unreasonable.

There is no "Fair" score. Either the findings of fact which were made are supported by the evidence, or they are not. The distinction between "Good" and "Unsatisfactory" is whether or not the findings of fact are supported by substantial evidence. Substantial evidence has been defined as "such evidence, or such relevant or competent evidence, as a reasonable mind might accept as adequate to support a conclusion."

## Lower Authority Appeals Quality \_\_\_\_\_ Appendix 3(34)

### 26. Findings of fact. (1 with mid range score)

Did the Hearing Officer make findings of fact necessary to resolve the issues and support the conclusions of law in the case?

#### Good (9) :

The decision contained all the necessary findings of fact. The form in which the findings were stated leaves no doubt that they were facts found by the Hearing Officer. The decision omitted recitation of the testimony in support of the findings of fact.

#### Fair (3) :

The decision contained all the necessary findings of fact. However, there was some recitation of testimony.

#### Unsatisfactory (0): F

The decision did not contain the necessary findings of fact.

### REFERENCE NOTES - QUESTION 26.

Findings of fact are sometimes referred to as evidentiary findings or primary facts. The intent of this question is to ensure that the findings of fact are complete and also expressed in the decision as findings. They should cover everything in issue and support the legal conclusion of the Hearing officer, and they should be worded to show clearly that they are the findings of the Hearing Officer. If the finding is based on the taking of official or administrative notice, it should be so stated.

Findings, of fact are the basis for the legal conclusions (ultimate facts) which are required by the statute that is being applied, and which are arrived at by a process of reasoning from the findings of fact. For example, if "quit" is the issue, the decision should contain findings of fact that the claimant left (and was not discharged), concerning the circumstances (to see whether the leaving was voluntary or involuntary), and as to the reason(s) for leaving (to determine the question of good cause). The conclusions that the claimant left his work and did so voluntarily and without good cause are the conclusions of law.

From a study of all the evidence, the Hearing Officer must determine what s/he concludes are the facts concerning what happened. This story of what happened should be told in logical (usually chronological) order and in positive terms which leave no doubt in the reader's mind what the Hearing Officer's findings of fact are.

## **Lower Authority Appeals Quality\_\_\_\_\_Appendix 3(35)**

The findings of fact must refer to all the elements of the issue. The findings must be expressed as findings; evidence should not be summarized; and the testimony should not be stated or quoted, except when testimony may be a finding of fact.

The Hearing Officer's findings of fact must be relevant, accurate, and complete since they are final (in most States) if supported by sufficient, competent evidence in the record. Under the circumstances, the review court must rely upon the decision for these findings. Therefore, they must be clearly stated in the decision as findings of the Hearing Officer (as distinguished from a summary of evidence).

A "Good" score is warranted if the decision contains all necessary findings of fact and does not cite testimony, and a "Fair" score is warranted when the decision cites some testimony although the findings of the Hearing Officer are apparent. "Unsatisfactory" is scored when the decision fails to contain all the necessary findings needed to resolve the issues.

**Lower Authority Appeals Quality\_\_\_\_\_Appendix 3 (36)**

27. Official notice/Administrative notice. (2)

If the decision contained findings of fact which were the subject of official/administrative notice were they clearly and accurately identified and were the parties allowed to object?

Good (6): The Hearing Officer clearly identified officially/administratively noted facts, and they were facts which could be officially noted.

Fair (X):

Not applicable - Do not use.

Unsatisfactory (0):

The Hearing Officer officially/administratively noted facts not subject to official notice or failed to state they were noted facts.

Did not occur (6):

No facts were officially/administratively noted.

REFERENCE NOTES - QUESTION 27.

The intent of this question is to ensure that if the Hearing Officer took official/administrative notice of a fact, it was a fact that could be officially/administratively noted, that it was clearly identified at hearing or in the decision as an officially/administratively-noted fact, and the parties had opportunity to object to the fact so noticed at hearing or before the decision became final.

Official/administrative notice may extend beyond those "judicially cognizable facts" to include "general, technical or scientific facts within the Hearing Officer's specialized knowledge" and may include "documents, records and forms retained within the agency files." Where officially/administratively-noted facts form a basis for the decision, they need to be identified and the parties given the opportunity to challenge them. A statement in the decision "objections to officially-noted facts must be made in writing within 10 days of the mailing date of this decision" is sufficient to meet this requirement.



28. Required conclusions. (2)

Did the decision contain the conclusions of law required to resolve the issue(s) in the case?

Good (6) :

The decision did contain the necessary conclusions.

Fair (X):

Not applicable - Do not use.

Unsatisfactory (0):

The decision did not contain the necessary conclusions.

REFERENCE NOTES - QUESTION 28.

The intent of this question is to ensure that the Hearing Officer has indicated his/her final conclusion on each and all issues involved.

The conclusions of law (ultimate findings) refer to the final legal result of the case which grants or denies or modifies the relief requested by the appeal. Following the language of the statute, it tells the parties what will happen. The conclusion should be stated in clear, understandable terms, which are, nonetheless indicative of a firm, unwavering decision.

For example, in a simple absence misconduct issue, the specific provision in the law should be referred to by quoting it or by explaining it in simple terms with, when necessary, an explanation of a term such as "misconduct." The conclusion of law might be, "The claimant is disqualified since absence without notice constitutes misconduct connected with the work." This statement resolves the issue and should be supported by the Hearing Officer's findings that the claimant had been absent and had not given notice to his employer, with further appropriate details. The opinion would then continue with the rationale for the conclusion.

where there is no attempt to provide reasons, or illogical reasons are used not connected or associated with the facts. For example, if the Hearing Officer merely states, "It is the opinion of the Hearing Officer that the claimant is unavailable."

30. Form and style organization. (3)

Was the decision well organized as to form and style (not content)?

Good (3) :

The decision was organized so that the issues in the case, the findings of fact, the rationale, the conclusions of law and the ruling were clearly set forth and could be easily understood by the parties.

Fair (1) :

Although the various portions of the decision merged with one another, it was clear which statements were findings of fact and which were conclusions of law.

Unsatisfactory (0) :

The decision was not organized and it was difficult to understand.

REFERENCE NOTES - QUESTION 30.

The intent of this question is to ensure that each segment of the decision is stated distinctly for the purposes of clarity, correct administrative adjudication procedures, and compliance with legal requirements. The decision also serves as a source of information both within the agency and for the public.

This question refers to the outline or form of the decision and not to its content, which is covered in other questions.

The written decision is of the utmost importance. It is culmination of the hearing process, and must be adequate for judicial review. The decision should consist of:

1. A statement of what the issue is.
2. The findings of fact or evidentiary findings.
3. The opinion, rationale, or reasons — based upon the facts as found and the statute involved.
4. The conclusion of law — based upon the findings of fact and reasons, and showing the final judgment of the Hearing Officer on the issue.

## **Lower Authority Appeals Quality\_\_\_\_\_Appendix3(40)**

5. The ruling (final decision) or the action to be taken by the agency in accord with the decision.

Although some of these sections may be merged together by format, each should be distinguishable by its wording.

31. Decision states legal effect. (3)

Did the "decision" portion contain a clear and correct statement of the legal effect of each issue covered?

Good (3):

Each issue in the proceeding was covered, treated as affirmed, reversed, or modified, and when there was a modification, the modification was stated. The Hearing Officer indicated clearly the administrative action to be taken.

Fair (1):

Each issue in the proceeding was covered, treated as affirmed, reversed, or modified and, when there was a modification, the modification was stated. However, the decision did not clearly show the administrative action to be taken.

Unsatisfactory (0):

The decision did not adequately cover the disposition of the issues.

### REFERENCE NOTES - QUESTION 31.

The intent of this question is to ensure a decision style and format that informs the reader in a clear and effective manner the ruling of the Hearing Officer on all issues involved in the appeal.

A "Good" is scored when the decision shows the Hearing Officer's action on all issued involved, i.e., "affirmed," "reversed," or "modified" (as appropriate). If modified, it must clearly show the modification. Additionally, the decision taken as a whole shows the administrative action taken -- for example, "benefits are denied from the week of (date) and the 7 weeks immediately following ending (date.)" (Or any wording chosen by the Hearing Officer that would clearly show the administrative action.)

A "Fair" rating is scored if the decision meets all of the requirements for "good" except that it fails to show clearly the administrative action taken if such be necessary.

A decision is "Unsatisfactory" if it fails to show the disposition of issues involved in the appeal.

## Lower Authority Appeals Quality

## Appendix B(41)

### 33. Final date and further appeal. (3)

Did the decision clearly and understandably state the date that the decision would become final and the rights of further review or appeal?

#### Good (3):

The decision clearly states when the decision is final and that the party adversely affected may appeal. "This decision becomes final 20 days from the date of mailing" is sufficient if the date of mailing is clearly identified. "See the attached brochure for further appeal rights" is adequate to advise the parties that further appeal rights are available.

#### Fair (X):

Not applicable - Do not use.

#### Unsatisfactory (0):

The decision does not clearly set out when the decision becomes final or does not indicate that further appeal rights are available.

#### REFERENCE NOTES - QUESTION 33.

The intent of this question is to ensure that the parties understand when the decision becomes final and that the adversely affected party may appeal.

**Lower Authority Appeals Quality****Appendix B(42)**

## APPEALS OUALITY PACKAGE CRITERIA AND GUIDELINES SUMMARY

New No		Old No.	Old Score G-F-U-N	New Score G-F-U-N
(1)	Notice of hearing	( )	_-_-_-_-	6-3-0-X
(2)	Pre-hearing explanation	( )	_-_-_-_-	6-3-0-X
(3)	Opening statement	(1)	6-X-0-X	6-3-0-X
(4)	Exhibits	(14)	6-3-0-6	6-3-0-6
(5)	Witnesses (logical order)	(2)	6-4-0-6	6-3-0-6
(6)	Witnesses (orderly inquiry)	( )	_-_-_-_-	3-1-0-X
(7)	Questions of own witnesses	(3)	6-4-0-6	9-3-0-9 _F
(8)	Clear language	(4)	6-4-0-X	6-3-0-X
(9)	Single point questions	(5)	4-2-0-X	6-3-0-X
(10)	Clarify conclusions	(6)	9-6-0-9	6-3-0-6
(11)	Confrontation	(7)	9-X-0-9	9-X-0-9 __F
(12)	Cross-examination	(8)	6-4-0-6	9-3-0-9 _F
(13)	Repetitive testimony	(9)	4-2-0-4	3-1-0-X
(14)	Leading questions	(10)	6-4-0-6	6-3-0-X
(15)	Control of interruptions	(12)	4-2-0-4	6-3-0-6
(16)	Off the record	(13)	6-4-0-6	6-3-0-6
(17)	Interpreters	(15)	6-4-0-6	6-3-0-6
(18)	Continuances	(16)	4-2-0-4	3-1-0 3
(19)	Closing hearing	(17)	4-2-0-X	6-3-0-X
(20)	Hearing within scope	(18)	9-X-0-X	9-X-0-X _F

**Lower Authority Appeals Quality** —

**Appendix 3(43)**

acronyms at critical points.

## **Lower Authority Appeals Quality    Appendix 3 (44)**

### 33. Final date and further appeal. (3)

Did the decision clearly and understandably state the date that the decision would become final and the rights of further review or appeal?

Good (3) :

The decision clearly states when the decision is final and that the party adversely affected may appeal. "This decision becomes final 20 days from the date of mailing" is sufficient if the date of mailing is clearly identified. "See the attached brochure for further appeal rights" is adequate to advise the parties that further appeal rights are available.

Fair (X):

Not applicable - Do not use.

Unsatisfactory (0):

The decision does not clearly set out when the decision becomes final or does not indicate that further appeal rights are available.

### REFERENCE NOTES - QUESTION 33.

The intent of this question is to ensure that the parties understand when the decision becomes final and that the adversely affected party may appeal.

**Lower Authority Appeals Quality****Appendix 3(45)**

APPEALS QUALITY PACKAGE  
CRITERIA AND GUIDELINES  
SUMMARY

New No		Old No.	Old Score G-F-U-N	New Score G-F-U-N
(1)	Notice of hearing	( )	-- -- --	6-3-0-X
(2)	Pre-hearing explanation	( )	-- -- --	6-3-0-X
(3)	Opening statement	(1)	6-X-0-X	6-3-0-X
(4)	Exhibits	(14)	6-3-0-6	6-3-0-6
(5)	Witnesses (logical order)	(2)	6-4-0-6	6-3-0-6
(6)	Witnesses (orderly inquiry)	( )	-- -- --	3-1-0-X
(7)	Questions of own witnesses	(3)	6-4-0-6	9-3-0-9_F
(8)	Clear language	(4)	6-4-0-X	6-3-0-X
(9)	Single point questions	(5)	4-2-0-X	6-3-0-X
(10)	Clarify conclusions	(6)	9-6-0-9	6-3-0-6
(11)	Confrontation	(7)	9-X-0-9	9-3-0-9_F
(12)	Cross-examination	(8)	6-4-0-6	9-3-0-9_F
(13)	Repetitive testimony	(9)	4-2-0-4	3-1-0-X
(14)	Leading questions	(10)	6-4-0-6	6-3-0-X
(15)	Control of interruptions	(12)	4-2-0-4	6-3-0-6
(16)	Off the record	(13)	6-4-0-6	6-3-0-6
(17)	Interpreters	(15)	6-4-0-6	6-3-0-6
(18)	Continuances	(16)	4-2-0-4	3-1-0 3
(19)	Closing hearing	(17)	4-2-0-X	6-3-0-X
(20)	Hearing within scope	(18)	9-X-0-X	9-X-0-X_F



**Lower Authority Appeals Quality****Appendix 3(46)**

New No		Old No.	Old Score G-F-U-N	New Score G-F-U-N
(21)	Attitude	(11)(20)	5-2-0-X	6-3-0-X
(22)	Bias and prejudice	( )	-- --	9-X-O-X_F
(23)	Obtain evidence	(21)	9-X-O-X	9-3-0-X_F
(24)	Issues clear	(22)	4-X-O-X	3-X-O-X
(25)	Substantial evidence for facts	(24)	9-X-O-X	9-X-O-X_F
(26)	Findings of fact	(23)	9-6-0-X	9-3-0-X_F
(27)	Official notice	( )	-- --	6-X-0-6
(28)	Conclusions	(25)	6-X-O-X	6-X-O-X
(29)	Reasons and rationale	(26)	6-3 -0-X	6-3-0-X
(30)	Decision organized	(27)	4-2-0-X	3-1-0-X
(31)	Decision legal effect	(28)	4-2-0-X	3-1-0-X
(32)	Decision understandable	(29)	6-4-0-X	6-3-0-X
(33)	Finality and appeal	( )	-- --	3-X-O-X