

§1401-C. Division of Administrative Hearings

1. Division established. There is established within the department the Division of Administrative Hearings, referred to in this section as "the division," to hear and decide appeals from decisions pertaining to chapters 7 and 13 and any other appeals as the commissioner may require.

A. The division is under the direction of the Director of the Division of Administrative Hearings, referred to in this section as "the director," appointed by the commissioner and subject to the Civil Service Law. The director must be an attorney admitted to practice law in the State. [PL 2025, c. 388, Pt. PPP, §12 (NEW).]

B. The director shall administer the office, supervise and assign cases to administrative hearing officers and preside at hearings as necessary. [PL 2025, c. 388, Pt. PPP, §12 (NEW).]

C. Administrative hearing officers shall preside at appeal proceedings. Administrative hearing officers are under the direction of the director and hired subject to the Civil Service Law. [PL 2025, c. 388, Pt. PPP, §12 (NEW).]
[PL 2025, c. 388, Pt. PPP, §12 (NEW).]

2. Oaths and witnesses. In the discharge of the duties imposed by this chapter, the commissioner, the division and any duly authorized representative of the commissioner or division has the power to administer oaths and affirmations, take depositions, certify official acts and issue subpoenas to compel the attendance of witnesses and the production of books, papers, correspondence, memoranda and other records determined necessary as evidence in connection with a disputed claim or the administration of this chapter. Oaths and affirmations required by reason of duties performed pursuant to this chapter may be administered by any persons as may be designated for the purpose by the commissioner. In the discharge of the duties imposed by this chapter, the commissioner, the division or any duly authorized representative of the commissioner or division, when the interests of any interested party demand, may issue commissions to take depositions to any unemployment compensation or employment security official empowered to take such depositions under this chapter or the laws of any other state, for any of the following causes:

A. When the deponent resides out of or is absent from the State; [PL 2025, c. 388, Pt. PPP, §12 (NEW).]

B. When the deponent is bound to sea or is about to go out of the State; or [PL 2025, c. 388, Pt. PPP, §12 (NEW).]

C. When the deponent is so aged, infirm or sick as to be unable to attend at the place of hearing. [PL 2025, c. 388, Pt. PPP, §12 (NEW).]

A deposition pursuant to paragraph A, B or C must be taken by written interrogatories to be compiled by the commissioner or the division, and the adverse party must be afforded an opportunity to refute such testimony before a determination is made. The deponent must be sworn and the deposition must be signed and sworn to by the deponent before admissible as testimony at a hearing before the division or the commissioner.

Subpoenas under this subsection must be issued pursuant to Title 5, section 9060.
[PL 2025, c. 388, Pt. PPP, §12 (NEW).]

3. Refusal to appear. A person who without just cause fails or refuses to attend and testify or to answer any lawful inquiry or to produce books, papers, correspondence, memoranda and other records, if it is in that person's power to do so, in obedience to a subpoena of the commissioner, the division or the duly authorized representative of the commissioner or division commits a Class E crime. This crime is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A. If a person refuses to obey a subpoena duly issued by the commissioner, the division or the duly authorized representative of the commissioner or division, any court of this State within the jurisdiction of which the person

resides or transacts business has jurisdiction to issue to that person an order requiring the person to appear and produce evidence or testimony, and any failure to obey that order may be punished by the court as contempt of court.

[PL 2025, c. 388, Pt. PPP, §12 (NEW).]

4. Protection against self-incrimination. A person may not be excused from attending and testifying or from producing books, papers, correspondence, memoranda and other records before the division or any duly authorized representative or in obedience to the subpoena of the division or the duly authorized representative in any cause or proceeding before the division or any duly authorized representative on the ground that the testimony or evidence, documentary or otherwise, required of that person may tend to incriminate that person or subject that person to a penalty or fine; but an individual may not be prosecuted or subjected to any penalty or fine for or on account of any transaction, matter or thing concerning which that person is compelled, after having claimed privilege against self-incrimination, to testify or produce evidence, documentary or otherwise, except that the individual in testifying under this subsection is not exempt from prosecution and punishment for perjury committed in testifying.

[PL 2025, c. 388, Pt. PPP, §12 (NEW).]

SECTION HISTORY

PL 2025, c. 388, Pt. PPP, §12 (NEW).

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