

BEFORE THE UNEMPLOYMENT INSURANCE APPEALS BOARD

TO THE OFFICE OF ADMINISTRATIVE
HEARINGS

**STANDING ORDER OF THE
UNEMPLOYMENT INSURANCE
APPEALS BOARD**

**UNTIMELY FILED WRITTEN
ARGUMENT WILL NOT BE
CONSIDERED BY THE BOARD OR
ADMITTED INTO THE CASE RECORD**

Order No. 26-02

The Unemployment Insurance Appeals Board (Board) now issues this Standing Order denying admission of any parties' untimely filed written arguments into the relevant administrative case record.

GOVERNING LAW

The Board considers parties' filed written arguments timely if filed with the Board "no later than five business days from the date of the scheduled review proceeding." Admin. R. Mont. 24.7.304(3) and 24.7.306(1). Filing occurs on the date the Board receives the written argument, and the filing party is responsible for ensuring the Board's timely receipt of said argument. Admin. R. Mont. 24.7.304(2). The filing deadline is calculated pursuant to Mont. Code Ann. § 1-1-306. The filing deadline for written arguments has impacted parties' written notice of date, time, and place of a Board hearing. Admin. R. Mont. 24.7.305(1.)

PUBLIC NOTICE

On April 24, 2026, the Board provided public notice of the topic under consideration via a posted Agenda to its website ([Unemployment Insurance Appeals Board](#)). (See Agenda, attached as Ex. A.) The Agenda provided notice that the Board would consider the topic of party submission of written argument and statements at the

Board's May 6, 2026 public meeting. (*Id.*) On April 29, 2026, the Board posted a separate Addendum to the Agenda, including background information, relevant and/or governing administrative rules and procedural options for Board consideration. (See Addendum, attached as Ex. B.)

BOARD MEETING AND UNANIMOUS VOTE

On May 6, 2026, the Board considered procedural treatment of parties' untimely filed written arguments and allowed opportunity for public comment on the options before the Board. No members of the public appeared or provided comments. The Board considered the impact untimely filed written arguments has on Agency staff load, timeliness as an issue the Board addresses, impact on the timing of Board processing and decision-making on a case, the increase of cases appealed to the Board, clarity to the public and parties, and the parties' ability to provide the Board oral argument.

For reasons cited by the Board and in consideration of the aforementioned administrative rules, and pursuant to the Board's discretionary authority, **THE BOARD ISSUED THE FOLLOWING STANDING ORDER:**

1. Effective May 7, 2026, the Board will neither consider nor admit into the record any party's untimely filed written arguments.
2. The Board's Administrative Assistant (Administrative Assistant) and/or Department of Labor and Industry (Agency or DLI) staff shall take necessary ministerial action(s) to comply with this Order.

The Administrative Assistant will maintain a copy of this Order for Board records and publish a copy to the Board's website until such time as this Order is no longer in effect.

Dated this 13th day of May 2026.

UNEMPLOYMENT INSURANCE APPEALS BOARD

By:  _____

BOARD CHAIR LAURA FIX



Montana Department of
LABOR & INDUSTRY

Laura Fix, Chairperson
Vicki Caissey, Member
Derek Oestreicher, Member

Board Meeting Agenda, Wednesday May 6, 2026

Important Note: The Board has discretion to conduct its review in person or remotely pursuant to Administrative Rules Montana 24.7.305(2) and has chosen to hold these reviews remotely/via teleconference only.

This meeting is being recorded. Pursuant to *Montana Code Annotated 2-3-212(1)*, this is the official audio recording of the Unemployment Insurance Appeal Board Meeting for May 6, 2026 and is the official record of the meeting. As Administrative Assistant to the Board, I keep the meeting minutes, which are open and available to the public by inspection.

[Join Zoom Meeting by telephone](#)

<https://us06web.zoom.us/j/84573444044?pwd=PadhwuqYkhSZsKyUjEJvba1xnziy0l.1>

Meeting ID: 845 7344 4044

Passcode: ky4HM5

One tap mobile

+13462487799,,84573444044#,,,,*453647# US (Houston)

+14086380968,,84573444044#,,,,*453647# US (San Jose)

Join by SIP

• 84573444044@zoomcrc.com

Passcode: 453647

Join instructions

https://us06web.zoom.us/join/84573444044/invitations?signature=g_pXTeqPREQRx_s0pfas7pq3_LDBRXfggCFiMX6iqqg

8:15 A.M. – Board Discussion regarding submission of Written argument and Statements.

Call to order-
Staff attorney's comments-
Public comments-
Approval of Minutes-

SCHEDULED REVIEWS

Between 8:30 A.M. to 9:00 A.M.

Case # 00878-2026

ISSUE: Whether the Hearing Officer erred in determining that the claimant is not qualified to receive unemployment insurance benefits based upon the separation from employment, i.e. leaving work without good cause attributable to the claimant's employment, pursuant to *Montana Code Annotated* § 39-51-2302 and Administrative Rules Montana 24.40.615.

Between 9:00 A.M. to 10:00 A.M.

Case # 1076-2026

ISSUE: Whether the Hearing Officer erred in determining whether the appeal was timely filed or whether the appellant had good cause to delay filing the appeal as provided in *Montana Code Annotated* § 39-51-2402(3).

Case # 1060-2026 - SEALED

ISSUE: Whether the Hearing Officer erred in determining that the claimant was not available or able to work and was therefore ineligible to receive benefits as provided in *Montana Code Annotated* § 39-51-2104(1)(b) during the period of January 18, 2026 through March 21, 2026.

Between 10:00 A.M. to 11:00 A.M.

Case # 1051-2026 - SEALED

ISSUE: Whether the Hearing Officer erred in determining that the claimant is not eligible for benefits during an approved leave of absence as provided in *Montana Code Annotated* § 39-51-2112 and Administrative Rules Montana 24.40.101(21).

Case # 1059-2026

ISSUE: Whether the Hearing Officer erred in determining that the claimant is not qualified to receive unemployment insurance benefits based upon the separation from employment, i.e. leaving work without good cause attributable to the claimant's employment, pursuant to *Montana Code Annotated* § 39-51-2302 and Administrative Rules Montana 24.40.615.

Case # 1061-2026

ISSUE: Whether the Hearing Officer erred in determining whether the appeal was timely filed or whether the appellant had good cause to delay filing the appeal as provided in *Montana Code Annotated* § 39-51-2402(3).

Between 11:00 A.M. to 12:00 P.M.

Case # 00976-2026

ISSUE 1: Whether the Board should admit into the record written argument submitted by a party later than five business days from the date of the scheduled review proceeding pursuant to Administrative Rules Montana 24.7.304(3) and 24.7.306(1).

ISSUE 2: Whether the Hearing Officer erred in determining that the claimant is not qualified to receive unemployment insurance benefits based upon the separation from employment, i.e. leaving work without good cause attributable to the claimant's employment, pursuant to *Montana Code Annotated* § 39-51-2302 and Administrative Rules Montana 24.40.615.

Case # 00844-2026

ISSUE 1: Whether the Appellant showed good cause to extend the 10-day appeal deadline pursuant to *Montana Code Annotated* § 39-51-2403 and Administrative Rules Montana 24.40.101(14). (23 days late to appeal to UIAB).

ISSUE 2: Whether the Hearing Officer erred in determining that the claimant is not qualified to receive unemployment insurance benefits based upon the separation from employment, i.e. leaving work without good cause attributable to the claimant's employment, pursuant to *Montana Code Annotated* § 39-51-2302 and Administrative Rules Montana 24.40.615.

Between 1:00 P.M. to 2:00 P.M.

Case # 00961-2026

ISSUE 1: Whether new evidence submitted by the Appellant meets the requirements of Administrative Rules Montana 24.7.306(3) and the Board should admit it into the record, or if the new evidence includes written argument which meets the requirements of Administrative Rules Montana 24.7.304(3), the written argument should be admitted under 24.7.306(1).

ISSUE 2: Whether the Hearing Officer erred in determining that the claimant is not disqualified to receive benefits based upon the employer's inability to establish the discharge was due to misconduct as defined under *Montana Code Annotated* § 39-51-201(19) and pursuant to *Montana Code Annotated* § 39-51-2303.

Case # 1107-2026

ISSUE: Whether the Hearing Officer erred in determining whether the appeal was timely filed or whether the appellant had good cause to delay filing the appeal as provided in *Montana Code Annotated* § 39-51-2402(3).

Case # 1007-2026

ISSUE: Whether the Hearing Officer erred in determining that the claimant is not qualified to receive benefits based upon the separation from employment, i.e. discharged for misconduct, pursuant to *Montana Code Annotated* §§ 39-51-201(19) and 39-51-2303.

Between 2:00 P.M. to 3:00 P.M.

Case # 00991-2026 - SEALED

ISSUE 1: Whether new evidence submitted by the Appellant meets the requirements of Administrative Rules Montana 24.7.306(3) and the Board should admit it into the record, or if the new evidence includes written argument which meets the requirements of Administrative Rules Montana 24.7.304(3), the written argument should be admitted under 24.7.306(1).

ISSUE 2: Whether the Hearing Officer erred in determining that the claimant is not qualified to receive unemployment insurance benefits based upon the separation from employment, i.e. leaving work without good cause attributable to the claimant's employment, pursuant to *Montana Code Annotated* § 39-51-2302 and Administrative Rules Montana 24.40.615.

Case # 00892-2026

ISSUE 1: Whether new evidence submitted by the Appellant meets the requirements of Administrative Rules Montana 24.7.306(3) and the Board should admit it into the record, or if the new evidence includes written argument which meets the requirements of Administrative Rules Montana 24.7.304(3), the written argument should be admitted under 24.7.306(1).

ISSUE 2: Whether the Hearing Officer erred in determining that the claimant is not qualified to receive benefits based upon the separation from employment, i.e. discharged for misconduct, pursuant to *Montana Code Annotated* §§ 39-51-201(19) and 39-51-2303.



Montana Department of
LABOR & INDUSTRY

Laura Fix, Chairperson
Vicki Caissey, Member
Derek Oestreicher, Member

Board Meeting Agenda ADDENDUM, Wednesday May 6, 2026

Important Notes: This Addendum is to provide greater detail to the public about the Board Discussion item scheduled for 8:15 AM (see below). For the remainder of the agenda items, see the regularly posted Agenda on the Board's website ([Unemployment Insurance Appeals Board](#)) for the proceeding occurring on May 6, 2026.

The Board has discretion to conduct its review in person or remotely pursuant to Admin. R. Mont. 24.7.305(2) and has chosen to hold these reviews remotely/via teleconference only.

This meeting is being recorded. Pursuant to Mont. Code Ann. 2-3-212(1), this is the official audio recording of the Unemployment Insurance Appeal Board Meeting for May 6, 2026 and is the official record of the meeting. As Administrative Assistant to the Board, I keep the meeting minutes, which are open and available to the public by inspection.

Agenda Item

8:15 A.M. – Board Discussion regarding submission of written argument and statements.

Background Info:

Admin. R. Mont. 24.7.304(3) states: "An interested party may submit written argument for the board's consideration. The interested party must file the written argument with the board no later than five business days from the date of the scheduled review proceeding."

Admin. R. Mont. 24.7.306(1) states: "The board will consider, as it deems appropriate, such records or portions of those records which the department transmitted on appeal as required under 39-51-2404, MCA. The board will also consider interested parties' timely filed written arguments and any oral arguments of the parties which appear before the board at the time of the review proceeding."

Under Admin. R. Mont. 24.7.305(1), the Board must provide parties with written notice of the date, time, and place of board review at least ten days prior to the scheduled review. This notice includes a statement of issue(s) for Board consideration. Currently, the Board considers appeals of Office of Administrative Hearings' decisions twice a month. The rule requires the Board to consider (i.e. admit) timely filed written arguments. As admission of timely filed written arguments is a ministerial act (i.e. the Board lacks discretion as to timely filed written arguments), Administrative Assistant Tiffany Gilbert admits such arguments into the record without further Board direction. While 24.7.304(3) provides a deadline by which parties "must" file written argument with the Board, no consequence is provided in rule. The lack of clearly stated consequence provides the Board with discretion on whether to admit untimely filed written argument.

Board Action Required

Agency staff have requested the Board consider and decide how it will consistently address untimely filed written argument moving forward to provide guidance for staff ministerial work. There are three options for the Board's consideration:

1. The Board will admit all untimely filed written arguments into the record for Board consideration.
2. The Board will not admit any untimely filed written arguments into the record for Board consideration.
3. The Board will decide on a case-by-case basis whether to admit a party's untimely filed written argument.

If the Board selects either Option 1 or 2, it should make a motion to that effect and direct the Board Staff Attorney to draft a standing order reflecting the Board's decision and directing administrative staff to take any and all ministerial steps necessary to comply with the Board's decision (including, but not limited to: updating official information provided to the public and informing parties who file untimely written arguments as to the Board's decision).

If the Board selects Option 3, it should discuss and decide the factors it will consider each time the issue of untimely written argument comes before it and make a motion to that effect. These factors will then guide future Board members' actions and allow for consistent reasoning and decision-making. As the Board must provide parties with written notice of issues for Board consideration, notice must be given for whether the Board will admit the untimely filed written argument. If written notice of the issue cannot be provided at least ten days prior to the scheduled review, parties must either waive the requirement for ten days' notice, or the Board must reschedule its review proceedings for that case to allow for timely notice of all issues.

The decided course of action will remain in effect unless/until either the Board holds a new discussion and votes to change the former decision or adopts an administrative rule which would supersede the Board's decision.



The Board must allow an opportunity for the public to provide comment prior to any motion and vote.

**Recommendation of Board Staff Attorney Alea Sharp:
Option 2 Do not admit any untimely filed written arguments.**