

Integration of Telepresence for Unemployment Insurance (UI) Appeals Hearings

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Department and Problem Background

The Department of Employment and Workforce (DEW) is charged with three different and distinct missions. The first mission is to support the growth of the job market and workforce in South Carolina. This facet is managed and executed under the direction of the Employment Services (ES) Division.¹ The second is to collect and monitor the data related to the current state of the economy, workforce, and work environment in South Carolina, which is carried out by the Labor Market Information (LMI) Division.² The third primary mission is to support the workers of South Carolina during periods of unemployment through the administration of the Unemployment Insurance (UI) program, and other federally funded unemployment entitlement programs.³ This third mission is where we focus on the telepresence issue.

Unemployment Insurance Appeals System

A key feature of the UI system is the ability to challenge a department ruling on a claim for UI benefits. Any interested party, which is defined as the claimant for benefits or “the claimant's last or separating employer and any employer whose account may be affected by the adjudication of the claim,” has the legal right to challenge a department ruling.⁴ The federal Department of Labor requires agencies in the fifty states and territories that administer the UI program to allow for appeals to contest rulings.⁵ Under that framework, agencies typically provide two levels of internal appeal⁶ before a claim can be contested in a court of initial jurisdiction.⁷ In South Carolina, the two levels of internal appeal consist of the Appeal Tribunal⁸ (also known as “the Tribunal” or “Lower Authority Appeals”) and the

¹ WORKFORCE PARTNERS, <https://dew.sc.gov/workforce-partners> (last visited Jan. 31, 2024).

² LABOR MARKET INFORMATION, <https://dew.sc.gov/labor-market-information> (last visited Jan. 31, 2024).

³ INDIVIDUALS, <https://dew.sc.gov/individuals> (last visited Jan. 31, 2024).

⁴ S.C. CODE ANN. § 41-35-660 (2002).

⁵ U.S. DEPARTMENT OF LABOR, FEDERAL-STATE PARTNERSHIP 12 (2023).

⁶ Washington, D.C., Hawaii, Minnesota, Nebraska, and the Virgin Islands have only one level of internal appeal before a claim can be appealed to court.

⁷ S.C. CODE ANN. § 41-35-720 (2010).

⁸ S.C. CODE ANN. § 41-35-700 (2010).

Appellate Panel (also known as “the Panel” or “Higher Authority Appeals”).⁹ A claim can only be challenged to a court of initial jurisdiction after the appealing party has exhausted their rights to administrative remedy.¹⁰ Although the plain language of that sounds complex, it just means a party who wants to have a court review their case must have a hearing before the Appeal Tribunal, have the case reviewed by the Appellate Panel, and must still disagree with the Appellate Panel’s ruling.¹¹ In order to effectuate challenges to department rulings, the Appeal Tribunal conducts a hearing. These quasi-judicial proceedings must allow the interested parties a full and fair opportunity to provide evidence and confront witnesses and evidence presented by the opposing party.¹² In Appeal Tribunal hearings, a Hearing Officer asks questions of the parties, admits documentary evidence, and creates a ruling on the claim. The Hearing Officer acts like an administrative law judge and is charged with gathering the record on appeal and making findings of fact and conclusions of law regarding the contested claim.¹³ After the Appeal Tribunal decision is issued, parties can appeal the ruling to the Appellate Panel.¹⁴ The Appellate Panel is a three member group that reviews the record on appeal and issues the final department decision on the appealed claim.¹⁵ The Panel functions similarly to an appellate level court, and does not conduct its own fact finding. Instead, the Panel allows argument from parties on the record developed by the Appeal Tribunal.¹⁶ The Appellate Panel allows parties to participate in oral argument on that record at their office in Columbia, but does not allow for telephone or video conference hearings.¹⁷

⁹ S.C. CODE ANN. § 41-35-710 (2010).

¹⁰ S.C. CODE ANN. § 41-35-690 (2010).

¹¹ S.C. CODE ANN. § 41-35-740 AND 750 (2010).

¹² U.S. DEPARTMENT OF LABOR, HANDBOOK FOR MEASURING UI LOWER AUTHORITY APPEALS QUALITY 11-61 (2011).

¹³ S.C. CODE ANN. § 41-35-680 (2010).

¹⁴ S.C. CODE ANN. § 41-35-690 (2010).

¹⁵ S.C. CODE ANN. § 41-35-710 (2010).

¹⁶ APPEALS, <https://dew.sc.gov/individuals/appeals> (last visited Jan. 31, 2024).

¹⁷ S.C. DEPARTMENT OF EMPLOYMENT AND WORKFORCE, NOTICE OF APPEAL TO THE APPELLATE PANEL, Form APP303_16.0.0 (2023).

Appeal Tribunal Hearing Process and Current State

Until 2013, Hearing Officers would travel to DEW offices across the state to hold hearings in person.¹⁸ This facilitated better communication during hearings and allowed for the inclusion of documents into the record because all parties were in the room and were able to review and object to documentation as it was introduced.¹⁹ In June 2013, executive leadership at DEW required Appeal Tribunal hearings be conducted via telephone in the administrative offices in Columbia, rather than at local DEW offices.²⁰ Telephone hearings are conducted in the same manner as in person hearings.²¹ However, the Hearing Officer, parties, witnesses, attorneys, and observers are all at different locations. This allowed for easier participation by all interested parties, but limited the ability to review and directly confront documentary evidence. DEW modernized their UI claim system in 2017 in conjunction with North Carolina by implementing the Southeast Consortium Unemployment Benefits Integration system (SCUBI) which allowed documents to be automatically imaged by the system and viewed by claimants and interested parties via online portal accounts.²²

Gap Statement and Importance

The Appeal Tribunal almost exclusively conducts hearings via telephone. This limits access to individuals who may have special needs that would be better served by presenting their cases in person, and at times reduces the level of professionalism by parties participating a hearing.

Equality of access and due process are pivotal to the proper administration of the UI program. By expanding the methods by which a hearing can be conducted, DEW can better serve the parties to

¹⁸ Interview with Daniel C. Beach, Senior Hearing Officer, DEW (Nov. 6, 2023).

¹⁹ Interview with Brynn N. DeHay, Senior Hearing Officer, DEW (Nov. 6, 2023).

²⁰ Interview with Romi Y. Robinson, Director of Appeals, DEW (Jan. 25, 2024).

²¹ S.C. DEPARTMENT OF EMPLOYMENT AND WORKFORCE, NOTICE OF HEARING BEFORE APPEAL TRIBUNAL, Form APP105_29.0.0 (2023).

²² MANAGE YOUR WEEKLY BENEFITS, <https://dew.sc.gov/individuals/manage-your-weekly-benefits> (last visited Feb. 1, 2024).

these hearings while minimizing any additional cost or inconvenience related to travel for in-person proceedings.

Project Goal

To determine the feasibility of integrating video conferencing as a method of conducting UI hearings before the Appeal Tribunal and Appellate Panel.

Data Collection

Several factors needed to be considered to determine whether telepresence hearings would be valuable to DEW and to the constituents the department serves. We must first examine whether the current system is providing the required level of service expected of UI appeals hearings.

Postponed Cases

Appeals hearings are generally scheduled as they are filed, so first appeals submitted are the first to be set for a hearing. In 2023, the average age of an appeals case was 11.75 days.²³ In addition, the Tribunal is required to provide no less than seven days' notice of a hearing.²⁴ Consequently, hearings are usually scheduled for a hearing only one to two days after the appeal is initially submitted.²⁵ This short period of time for claimants and interested parties to request a case be postponed due to potential conflicts or to discover potential evidence may negatively impact the department's ability to guarantee due process to all hearing participants.

For the most recent calendar year completed in 2023, the Appeal Tribunal postponed and rescheduled 317 cases after requests from claimants and interested parties.²⁶ This data was gathered from a manual

²³ UNEMPLOYMENT INSURANCE APPEALS TIME LAPSE & AVERAGE AGE OF APPEALS, https://oui.doleta.gov/unemploy/ui_insurance_appeal.asp (last visited Jan. 31, 2024).

²⁴ S.C. CODE ANN. § 41-35-680 (2010).

²⁵ Interview with Michaela Robertson, Appeal Support Staff Supervisor, DEW (Nov. 6, 2023).

²⁶ Work Item Search, <https://scuicore.dew.sc.gov/IWF/workFlowSearch.htm> (enter selection criteria for "Scheduling Reschedule – Appeal" work type and creation date between Jan. 1, 2023-Dec. 31, 2023).

count of requests created within the SCUBI system. The Appeal Tribunal received 15,348 appeals in 2023.²⁷ This shows 2.07% of appealed claims request the hearing be postponed before the scheduled date of the hearing. This count of postponements coupled with the postponement rate may be instructive in determining whether there is a need to alter the current process for hearings.

In Person Requests

Since the department moved to conduct hearings primarily via telephone conference in 2013, very few specific requests are made to have an in person hearing before the Appeal Tribunal. These requests are reviewed by management in the Appeals Division and are ordinarily granted for limited circumstances²⁸ typically arising from disability accommodations.²⁹ In 2023, only two of the 15,348 requested appeals had hearings conducted in person.³⁰ The count of in person Appeal Tribunal hearings was gathered by the Appeals Division support staff and scheduling supervisor, and the count of appeals filed within the 2023 calendar year was gather from data reported from DEW to the federal Department of Labor.

In the second tier of internal review, requests for in person oral argument are granted by the Appellate Panel if the claimant or any other interested party submits a written request to the Appellate Panel. In 2023, the Appellate Panel conducted 83 of the 914 appealed claims with an in person oral argument, which shows 9.08% of the Appellate Panel workload involves in person proceedings.³¹ Information regarding the workload and number of in person cases handled by the Appellate Panel was gathered from internal management reporting tools that provide counts for both in person cases, and the total number of cases handled by the Appellate Panel in 2023. During the initial stages of the COVID-19

²⁷ UNEMPLOYMENT INSURANCE APPEALS TIME LAPSE & AVERAGE AGE OF APPEALS, https://oui.doleta.gov/unemploy/ui_insurance_appeal.asp (last visited Jan. 31, 2024).

²⁸ Interview with Brynn N. DeHay, Senior Hearing Officer, DEW (Nov. 6, 2023).

²⁹ E.g., Recently hearing impaired claimant required in person hearing to communicate with the Hearing Officer and the opposing party. This hearing was conducted at the DEW local office closest to the claimant's residence.

³⁰ Interview with Michaela Robertson, Appeal Support Staff Supervisor, DEW (Nov. 6, 2023).

³¹ SCUBI SC DASHBOARD, APPEALS SC OPERATIONAL REPORTS, <http://10.75.5.109:9502/analytics/saw.dll?Dashboard> (select Higher Authority Appeals Time Lapse Details – Revision and select Jan. 1, 2023-Dec. 31, 2023; then submit).

pandemic, the Appellate Panel elected not to conduct in person proceedings, and instead allowed parties to submit written briefs in lieu of an oral argument. Additionally, the Appellate Panel elected not to pursue the possibility of allowing for telepresence hearings at that time.³² In 2021, the Appellate Panel returned to in person oral arguments in accordance with the same pre-COVID protocols.

Failure to Appear

Another factor to determining whether the current system requires the addition of telepresence hearings is the number of abandoned hearings. These occur when a Tribunal hearing is scheduled, but the appealing party is not present when the hearing is conducted. Data gathered from DEW's internal management reporting tools shows that 2,236 hearings ended in dismissal after the appellant failed to appear for their scheduled hearing.³³ This amounts to 21.52% of Tribunal hearings being dismissed for nonappearance by the party that filed the appeal. Parties have the right to contest these dismissals. Over the same report period in 2023, only 255 appeals (just 11.04% of dismissed cases) were filed contesting the dismissal for the party's failure to appear at the call of the case.³⁴

Current Users of Telepresence Hearings

As South Carolina is only one of the entities that administers UI appeals hearings, we can look to other states to see whether use of telepresence hearings is in common usage. In June 2023, the National Association for Unemployment Insurance Appeals Professionals (NAUIAP) conducted an annual training conference in Denver, Colorado.³⁵ This conference had attendees from forty-one different states and the District of Columbia.³⁶ During that conference, Hearing Officers from South

³² S.C. DEPARTMENT OF EMPLOYMENT AND WORKFORCE, REQUEST FOR IN-PERSON HEARING, Form APP350_10.0.0 (2020).

³³ SCUBI SC DASHBOARD, APPEALS SC OPERATIONAL REPORTS, <http://10.75.5.109:9502/analytics/saw.dll?Dashboard> (select Lower Authority Appeals Time Lapse Details – Revision and select Jan. 1, 2023-Dec. 31, 2023; then submit).

³⁴ Id.

³⁵ TRAINING AND CLE, <https://nauiap.org/training-and-cle/> (last visited Jan. 31, 2024).

³⁶ Interview with Romi Y. Robinson, Director of Appeals, DEW (Jan. 25, 2024).

Carolina led training sessions on evidence and hearing procedures.³⁷ These sessions included a survey for the attending trainees to provide information regarding their hearing process.³⁸ This included the types of hearings that are conducted, the vendors used to facilitate those hearings, and other pertinent information related to telephone and telepresence hearings. During that conference, responses were collected from thirty attendees from nineteen different states.³⁹ Of these responses, all attendees indicated hearings were conducted via telephone.⁴⁰ Twenty-seven of the thirty attendees indicated that nearly all of their hearings were conducted via telephone conference, rather than in person or via video conference.⁴¹ Only four attendees from three states (Colorado, Georgia, and Massachusetts) indicated they currently use telepresence for video conference hearings.⁴² These four attendees cited two service providers for their telepresence hearings- Google Meet and Webex.⁴³ One additional attendee from Virginia stated that their state does not use telepresence hearings, but would use Microsoft Teams or Webex if they moved to telepresence hearings in the future.⁴⁴

Application of Telepresence in Legal Proceedings

The information and scholarly work in this area is novel; however, due to the recent events of the COVID-19 pandemic, there is research showing the impact telepresence hearings have on legal proceedings. The data here is limited because the quasi-judicial proceedings conducted by the Appeals Division at DEW have not been studied to the same level as court-level proceedings. Some of the earliest tested use of telepresence hearings was conducted by the Bureau of Veterans Affairs (VA).⁴⁵

³⁷ SUBPOENA & EVIDENCE PROFFER WORKSHOP, https://docs.google.com/presentation/d/1gPBkeyq_oYA0mOP9YxnVjo0TXXjAc6KW/edit#slide=id (last visited Jan. 31, 2024).

³⁸ Matthew M. Cujak, Survey of Hearing Processes for NAUIAP Members, Questions (2023).

³⁹ Matthew M. Cujak, Survey of Hearing Processes for NAUIAP Members, Responses (2023).

⁴⁰ Id.

⁴¹ Id.

⁴² Id.

⁴³ Id.

⁴⁴ Id.

⁴⁵ Alicia Bannon & Janna Adelstein, The Impact of Video Proceedings on Fairness and Access to Justice in Court, BRENNAN CENTER FOR JUSTICE Sept. 10, 2020, at 6.

The VA began allowing for telepresence hearings in addition to in person hearings for contested claims for VA benefits.⁴⁶ Their study of this change showed less than one percent variance in outcomes between in person and telepresence hearings.⁴⁷ In addition, the VA had cost savings as a result because their Administrative Law Judges tasked with telepresence hearings were not traveling to multiple locations to conduct in person hearings.⁴⁸ This cost savings realization has already taken place for UI hearings at DEW because the Hearing Officers have not traveled for hearings as a matter of regular business since 2013.⁴⁹ The aspect of potential cost savings for all parties has been explored by the Self-Represented Litigation Network and found that in civil proceedings, there may be benefits for all parties to a matter, including the administering entity or court, the appealing party, and the responding party.⁵⁰

Although the VA found positive outcomes for their proceedings, a study of telepresence criminal proceedings in the United Kingdom found that seventy-two percent of survey respondents believed defendants' communication with counsel and judges was negatively impacted in telepresence hearings when compared to in person hearings.⁵¹ This negative impact on defendants was also seen in Florida, where a temporary allowance for telepresence hearings was ended by the Florida Supreme Court in 2001, and those proceedings returned to in person hearings.⁵²

The Brennan Center for Justice report addresses another key aspect of these types of proceedings: access to justice. They found that in some states, between eighty to ninety percent of parties to a hearing are not represented by counsel.⁵³ Further, many people not represented by an attorney may

⁴⁶ Id.

⁴⁷ Id.

⁴⁸ Id.

⁴⁹ Interview with Romi Y. Robinson, Director of Appeals, DEW (Jan. 25, 2024).

⁵⁰ Alicia Bannon & Janna Adelstein, The Impact of Video Proceedings on Fairness and Access to Justice in Court, BRENNAN CENTER FOR JUSTICE Sept. 10, 2020, at 9.

⁵¹ Id. at 7.

⁵² Id. at 8.

⁵³ Id. at 10.

be technologically unsophisticated and may not have access to the tools or internet resources to participate in a telepresence hearing.⁵⁴

Data Analysis

Using the information gathered in the section above, we can draw some conclusions on the current state of UI appeals in South Carolina and the potential need for telepresence hearings to be conducted at the Appeal Tribunal level.

The current workflow regarding the Appeals Division hearing process shows several interesting points to consider. First, there are relatively few cases that require postponement. This shows that in many circumstances parties are able and/or willing to make alterations to their schedules to participate in telephone hearings. Further, the flexible and less formal nature of those proceedings lends itself to parties being present for a phone-based hearing at times they may otherwise be unavailable for formal proceedings either in person or via telepresence.

The data related to in person hearings, in the same manner, seems to show that very few parties expressly desire to have a hearing conducted in a more formal setting than telephone hearings. In fact, the only times in person hearings were requested in 2023 were for disability-related accommodations for parties to hearings. In contrast, the workload at the Appellate Panel level seems to indicate there may be some desire for alternative hearing venues. As nearly ten percent of the workload is conducted after a party requests an oral argument, there may be room for the Appellate Panel to allow for telepresence hearings instead of requiring attendance at their offices in Columbia. This could decrease the amount of time spend preparing their hearing room for those proceedings, and would allow parties to represent their interests from remote locations. Although this may be a preference by the parties to

⁵⁴ Id.

an appeal hearing, the Appellate Panel's preference has been clearly articulated by their return to in person proceedings in 2021.

The information regarding dismissals after an appealing party fails to appear at the call of their case seems to focus in on party preferences. Put simply, if a party who contests a ruling fails to appear at a telephone hearing, there is very little to demonstrate that these same types of participants would prefer a more rigid, formal proceeding conducted via telepresence.

The survey of other states conducted at the NAUIAP annual training conference provided an interesting insight into the use of telepresence hearings at the national level. States operate their own UI systems in vacuums due to differences in state law and political climate.⁵⁵ Given that wide variance as the starting point, it was surprising to see how few states have moved to allowing telepresence hearings as part of their appeals workload administration. I had anticipated seeing larger states, politically liberal states, and states home to Tech Hubs⁵⁶ to be more likely to make use of telepresence hearings. Two of the three states currently using video conferencing for hearings have Tech Hub designation from the federal Department of Commerce,⁵⁷ however, there is very little else that draws them together as a group. Colorado, Georgia, and Massachusetts have no geographic continuity and share few other characteristics drawing them together. The data gathered from a wide subset of states at the NAUIAP conference demonstrates that few states see telepresence as a necessity in the administration of their appeals dockets. This may indicate there is limited need for this service in the current climate. What is particularly interesting about this data is that all states are now coming out of the COVID-19 pandemic, which by the nature of that illness, required separation between people. If more states did not move to telepresence hearings during that period, there may not be an existing

⁵⁵ U.S. DEPARTMENT OF LABOR, FEDERAL-STATE PARTNERSHIP 12 (2023).

⁵⁶ U.S. DEPARTMENT OF COMMERCE, REGIONAL TECHNOLOGY AND INNOVATION HUBS (TECH HUBS), [https://www.eda.gov/funding/programs/regional-technology-and-innovation-hubs#:~:text=A%20Tech%20Hubs%20Designation%20is,\(NOFO\)%20\(PDF](https://www.eda.gov/funding/programs/regional-technology-and-innovation-hubs#:~:text=A%20Tech%20Hubs%20Designation%20is,(NOFO)%20(PDF) (last visited Jan. 31, 2024).

⁵⁷ Id.

need to facilitate a middle ground for semi-formal proceedings between telephone hearings and in person hearings. Parties and state agencies may be satisfied with the current system for holding these hearings.

The research completed by the Brennan Center for Justice shows both positive and negative aspects to the inclusion of telepresence hearings for judicial proceedings. The first benefit is cost savings versus in person hearings. Although this may assist in some very limited circumstances for UI appeals at DEW, there would be relatively few situations when that would apply. As virtually all hearings are currently conducted by telephone conference, travel expenses for hearings are minimal.

The nature of UI benefits is to aid individuals during periods between jobs. Further, nearly all hearings proceed without legal representation for claimants or employers. As a result, claimants may have technological barriers to participation in a telepresence hearing and may not have the ability to access and make use of telepresence software to participate in a hearing. These technological barriers, coupled with the bias against defendant parties found in the study from the United Kingdom, raise concerns about fairness and due process as applied to UI appeal hearings. So, despite the potential increase in efficiency for these hearings by allowing telepresence hearings for the limited number of in person hearings currently being held, there are legitimate concerns regarding access to justice for parties to these proceedings. One limitation of this research is that very little information has been gathered on quasi-judicial hearings. The closest area to UI appeals studied is from civil court, which showed potential advantages for all parties to the proceedings for cost and expedience.

Implementation Plan

If DEW moves forward with the implementation of telepresence hearings as one of the options for conducting a UI hearing, there are multiple vendors within the space who already provide this service to appeals divisions in other states.

The research shows that at least two service providers are being used, Webex and Google Meets, and an additional state has identified Microsoft Teams as their option for telepresence hearings if they move to conducting hearings via video conference.

Current Telephone-Only Solution

Currently, DEW uses a sole source call bridge service provider to facilitate telephone hearings. Clear2There, Incorporated. (known as C2t) is a call bridge and recording service used by thirty-eight states for UI appeals hearings.⁵⁸ This service provides Hearing Officers with the ability to contact parties at previously recorded contact numbers and automatically stores and warehouses these audio records for later use. The service charges per minute by the number of phone lines used. The current rate is \$0.10 per minute per phone line.⁵⁹ At the time of adoption of this service in 2020, the average cost for the service per hearing conducted was \$11.85.⁶⁰ There is no method for Clear2There to provide telepresence services as part of the product suite currently used by DEW.

Google Meet

The service offered by Google Meet incorporates both voice and video conferencing.⁶¹ The service offers the services at a flat fee, rather than based on the number of participants to a hearing.⁶² Their pricing begins at \$12.00 per user per month, but that price can increase based on the specific needs of the purchasing entity.⁶³ Google Meet also allows for the participation of multiple parties to a call or conference, up to 100 participants, with recording times up to twenty-four hours.⁶⁴ The service provides participants the ability to upload materials or exhibits and allows all participants to view those

⁵⁸ Kelly Carlton, President, Clear2There, Inc., C2t Demo (May 13, 2019).

⁵⁹ Id.

⁶⁰ This calculation is based on the average hearing, which consisted of three parties (one Hearing Officer, one claimant, and one employer representative) with an average hearing length of 39:30.

⁶¹ COMPARE PLANS IN DETAIL, <https://workspace.google.com/pricing#compare-plans-in-detail> (last visited Jan. 31, 2024).

⁶² Id.

⁶³ Id.

⁶⁴ Id.

exhibits in real time.⁶⁵ The record retention for this service is limited to five terabytes of cloud-based storage,⁶⁶ which may become an issue for the size of files that are used and created in the course of a UI appeal hearing.⁶⁷ This service would require parties download the application onto their own device to use the service.⁶⁸

Cisco Webex

The Cisco Webex service functions in a similar manner to Google Meet. This service also includes the ability to conduct calls and video conferences, records the calls, and allows for the inclusion of documents in the same product.⁶⁹ However, it allows for only six calls to be conferenced at a time.⁷⁰ One functionality not included in Google Meet that enhances Webex as a potential option is the inclusion of live transcription during the recording.⁷¹ Webex Suite for the level of service required for UI appeals hearings would be \$25.00 per user per month. This service also requires the end user download their application to participate in a hearing.⁷²

Microsoft Teams

The Microsoft Teams solution occupies the same space as the prior two examples. It allows for both telephone and video conferencing, but at only 10 gigabytes per user, it has limited record retention

⁶⁵ Id.

⁶⁶ Id.

⁶⁷ The average a UI appeals hearing data is comprised of an audio file of 1.7 megabytes, and documentary evidence approximately 10 megabytes in size. With current workload, this would amount to approximately 1.17 terabyte of data for storage each year. DEW is required to retain these records for 10 years (*See* GENERAL RECORDS RETENTION SCHEDULE FOR ADMINISTRATIVE RECORDS OF STATE AGENCIES, [https://scdah.sc.gov/sites/scdah/files/Documents/Records%20Management%20\(RM\)/Schedules/admin.pdf](https://scdah.sc.gov/sites/scdah/files/Documents/Records%20Management%20(RM)/Schedules/admin.pdf) (last visited Jan. 31, 2024)).

⁶⁸ GOOGLE MEET, <https://workspace.google.com/products/meet/> (last visited Jan. 17, 2024).

⁶⁹ CHOOSE YOUR WEBEX PLAN, <https://pricing.webex.com/> (last visited Jan. 31, 2024).

⁷⁰ Id.

⁷¹ Id.

⁷² Id.

when compared to the other services in this space.⁷³ Their service begins at \$16.00 per user per month.⁷⁴

Evaluation of the Solution

When evaluating a move to including telepresence hearings, there are many factors to consider to ensure the value added by these types of services would outweigh the cost of use and implementation. DEW is currently engaged with a telephone-only service provider. This service provides all that is needed to conduct, record, and retain the record of these hearings with no added costs. Further, DEW staff can conduct in person hearings at locations around the state if a request is made for a legitimate reason. So, for DEW to expand to include telepresence hearings as a method of conducting UI appeals hearings, there should be a significant need for such a method. Under the current caseload,⁷⁵ there is no immediately identifiable need for the inclusion of telepresence hearings as an option. From that perspective, we can examine clearly what needs to be evaluated to determine if this solution will provide a benefit to the Appeals Division and to DEW.

Data is required to make that evaluation. First is cost- we would need to select one of the available service providers, use that service for a defined period, and then evaluate the hearings conducted via that system and compare it against the current UI appeals hearing baseline for cost and performance. Cost would be easy to evaluate. We could see the average cost per telepresence hearing and compare it against the known cost of a telephone hearing. Performance of the hearing would be slightly more complex to evaluate. This could be accomplished by reviewing the hearing under the federal Department of Labor requirements for hearings. It could also be done via a survey to parties to these hearings after the matter was closed and outside the deadlines to submit appeals from the claim.

⁷³ MICROSOFT TEAMS PHONE, <https://www.microsoft.com/en-us/microsoft-teams/microsoft-teams-phone#heading-0c4df0> (last visited Jan. 31, 2024).

⁷⁴ Id.

⁷⁵ Note that the Appeal Tribunal caseload is approximately 500 cases per month. This is less than half of the caseload pre-pandemic.

Another performance data metric would be to survey the Hearing Officers who conduct the telepresence hearings, and have them evaluate the quality of the record gathered in those hearings versus the quality of telephone hearings. Pulling all these factors together, we could provide a fair analysis of whether telepresence hearings are better than in person or telephone hearings for UI appeals.

Summary

Contested claims in the UI system require the department carefully and correctly reach factual findings on a claim for benefits and make conclusions of law that are in line with the rules governing the UI system. When the federal Department of Labor evaluates the performance of these hearings, one factor is paramount- due process. All claimants and interested parties must be provided a full and fair opportunity to present their cases and be heard on the issues under appeal. Although this can be accomplished via telephone hearing and the current workload does not indicate an immediate need to provide telepresence hearings, DEW may be able to provide an enhanced level of service by allowing telepresence hearings in place of in person participation. The data show a desire for this type of hearing in limited circumstances, and the greater legal community has been pushed by the COVID-19 pandemic to lay the groundwork for telepresence hearings as a valid, fair, and equitable facsimile of in person proceedings. Allowing parties to request a telepresence hearing may also provide a higher level of gravity to the proceedings that is absent on a telephone hearing while maximizing the efficiency of the current centralized hearing process. For these reasons, DEW should implement the inclusion of telepresence hearings into the allowable hearing workflow on a limited basis and thereafter monitor those hearings to determine the need for a third avenue for hearing participation.

Appendices

- A. NAUIAP Participant Survey- Questions
- B. NAUIAP Participant Survey- Results

Appendix A

Survey of Hearing Processes for NAUIAP Members

NAUIAP Conference Denver 2023

* Required

1. How satisfied are you with the methods your state uses to conduct hearings? *

- Very satisfied
- Somewhat satisfied
- Neither satisfied nor dissatisfied
- Somewhat dissatisfied
- Very dissatisfied
- Other

2. How many of your hearings are conducted via telephone conference? *

- Almost All (Nearly 100%)
- Most (Over 50%)
- Some (Less than 50% but more than 5%)
- Almost None (Less than 5%)

3. Which of these hearing processes does your state use? Select all that apply. *

In-person

Telephone

Video Conference (Zoom, Skype, etc.)

Other

4. Do you use a call bridge service for telephone hearings? *

Yes

No

5. Who is your telephone hearing call bridge service provider?

6. Do you use video conferencing for hearings? *

Yes

No

7. Who is your video conference service provider, if applicable?

8. What state do you work for?

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Appendix B

Survey of Hearing Processes for NAUIAP Members

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Responses

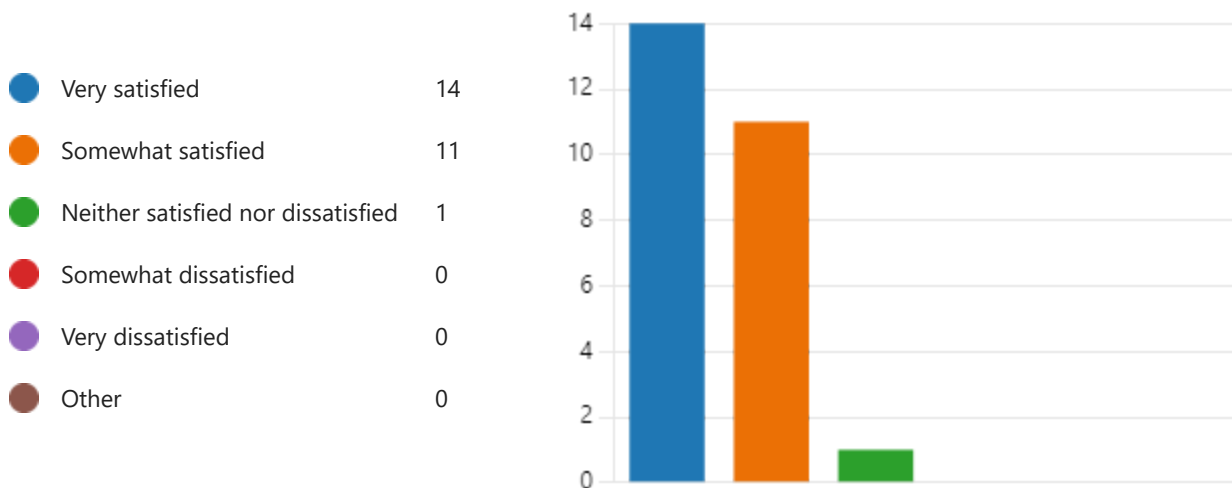
09:23

Average time to complete

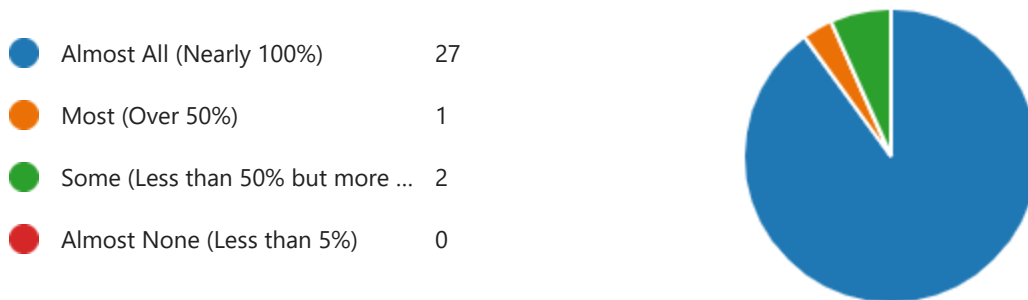
Active

Status

1. How satisfied are you with the methods your state uses to conduct hearings?



2. How many of your hearings are conducted via telephone conference?



3. Which of these hearing processes does your state use? Select all that apply.

● In-person	22
● Telephone	30
● Video Conference (Zoom, Skype...	6
● Other	2



4. Do you use a call bridge service for telephone hearings?

● Yes	26
● No	4



5. Who is your telephone hearing call bridge service provider?

24
Responses

Latest Responses

"C2T"

"C2T"

6. Do you use video conferencing for hearings?

● Yes	5
● No	25



7. Who is your video conference service provider, if applicable?

13
Responses

Latest Responses
"Google Meets"

8. What state do you work for?

25
Responses

Latest Responses
"Texas"
"Colorado"
"Missouri"
