

TITLE 3: HUMAN RESOURCES
DIVISION 4: EMPLOYMENT AND REGISTRATION

§ 4528. Adjudication of Claims.

(a) A citizen or CNMI permanent resident or U.S. permanent resident who is qualified for a job may make a claim for damages if an employer has not met the requirements of 3 CMC § 4525, the employer rejects an application for the job without just cause, and the employer employs a person who is not a citizen or CNMI permanent resident or U.S. permanent resident for the job.

(b) The Administrative Hearing Office has original jurisdiction to resolve all claims filed pursuant to this section.

(c) A hearing officer shall have general power to issue subpoenas, summon witnesses, require production of books, papers, documents and records, administer oaths, and such other powers as may be necessary to implement this chapter effectively. A hearing officer may refer a matter to the Department for investigation if the hearing officer deems investigation warranted and justified under the circumstances.

(d) A hearing shall be commenced as soon as practicable after filing of a complaint and any mediation that may be held in the matter. Notwithstanding any other provision of law, hearings shall be open to the public. Adequate notice and opportunity to present relevant evidence shall be given to all parties.

(e) The hearing officer shall, upon concluding the hearing, issue any necessary findings, decisions, and orders as soon as practicable. Issuance of findings, decisions, and orders shall be pursuant to 1 CMC § 9110, but shall not be judicially reviewable until final.

(f) The hearing officer is authorized to:

(1) Award actual and liquidated damages in an amount up to six months' wages for the job for which a citizen or CNMI permanent resident or U.S. permanent resident applied; and

(2) Levy a fine not to exceed two-thousand dollars for each violation of any provision of this chapter.

(g) Within fifteen days of issuance, any person or party affected by findings, decisions, or orders made pursuant to subsection (f) of this section may appeal to the Secretary. Upon appeal, the Secretary may, in the Secretary's discretion, restrict review to the existing records, supplement the record with new evidence, hear oral argument, or hear the matter de novo pursuant to 1 CMC §§ 9109 and 9110. The Secretary shall have the same powers as a hearing officer in addition to other powers pursuant to this section. Upon completion of review, the Secretary shall affirm or modify the finding, decision, or order in writing. Any modification shall include supplemental findings. The Secretary's decision shall constitute final action for purposes of judicial review.

(h) Judicial review of a final action of the Secretary is authorized after exhaustion of all administrative remedies and shall be initiated within thirty days of the final action. Judicial review shall be pursuant to 1 CMC § 9112. Appeals from a final action by the Secretary shall be made directly to the Commonwealth Superior Court.

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Source: PL 15-108, § 4(4528); amended by PL 17-1 § 5(M)(2)(a) and (b) (March 22, 2010),* modified.

Commission Comment: The Commission replaced references with codified section numbers, deleted figures that repeated written words and changed all occurrences of “CNMI permanent resident and U.S. permanent resident” to “CNMI permanent resident or U.S. permanent resident” pursuant to 1 CMC § 3806(c), (e) and (g). *PL 17-1 (enacted on March 22, 2010) contained the following effective date provision:

Section 12. Effective date. This Act shall take effect upon its approval by the Governor or becoming law without such approval and shall be retroactive to November 28, 2009 except as otherwise specifically provided herein.

For more information regarding Public Law 17-1, see comment to 3 CMC § 4511.