STATE OF FLORIDA
REEMPLOYMENT ASSISTANCE APPEALS COMMISSION

In the matter of:

Claimant/Appellee

R.A.A.C. Docket No. 22-01337

vs.

Referee Decision No. 0092960172-06

Employer/Appellant

ORDER OF REEMPLOYMENT ASSISTANCE APPEALS COMMISSION

This is an appeal of a referee's decision that held the claimant not disqualified from reemployment assistance benefits on the grounds the employer discharged him for reasons other than misconduct connected with work. After careful review, we reverse.

I.

The Commission has jurisdiction. §443.151(4)(c), Fla. Stat. The issues before the Commission are 1) whether the claimant was discharged by the employer for misconduct connected with work as provided in Section 443.101(1), Florida Statutes, and 2) whether the claimant received any sum as benefits under the reemployment assistance program law to which he is not entitled as provided in Section 443.151(6), Florida Statutes. We address each issue in turn.

II.

A. The Referee's Decision under Review

The referee's subsidiary and ultimate findings on the misconduct issue, and the evidence upon which they are based, are undisputed by the parties.

The appellant ("employer") is a federal defense contractor that maintains aircraft and personal flight equipment for students in the Navy and Marine Corps aviation training programs. The claimant worked for the employer as an air crew survival mechanic. In this position, the claimant was responsible for maintaining survival gear and emergency equipment that would be used, or potentially used, by pilots, navigators, and students.

As a federal defense contractor, the employer is required to abide by the federal Drug-Free Workplace Act of 1988 (DFWA), 41 U.S.C. §701 *et seq*., and the Department of Defense (DoD) drug testing regulations, 48 C.F.R. §252.223-7004.[1] A covered organization's failure to comply with the DFWA may result in penalties, including suspension or termination of its contract or grant and being prohibited from applying for future government funding. 41 U.S.C. §702(b)(1). To ensure its compliance, the employer and the claimant represented by the union, the International Association of Machinists and Aerospace Workers, AFL-CIO, and its Local No. 2777, entered into a collective bargaining agreement ("CBA") specifying that the employer "shall maintain" a drug testing policy that abides by the applicable federal laws.

In line with its obligation under the law and the CBA, the employer maintains a formal drug-free workplace statement and drug testing program, copies of which the claimant acknowledged receiving. The program specifies that all employees are subject to the DoD drug testing requirements. The program further provides, among other things, for random drug testing of all its employees. Among the listed drugs to be tested is marijuana. The statement spells out the specific consequence that an employee will face for a positive drug test result: "Anyone failing a drug or alcohol test . . . *shall be discharged*." The CBA reiterates this penalty: "Any employee who tests positive will be terminated."

As of June 21, 2021, the claimant is a qualified medical marijuana patient in the State of Florida. On August 3, 2021, the claimant was subject to a random drug test pursuant to the employer's drug testing program. The claimant tested positive for marijuana and was discharged on August 9, 2021.

On these facts, the referee concluded the claimant was discharged for reasons *other than* misconduct connected with work and held the claimant not disqualified from benefits. As explained in the following subsection of this order, the referee's conclusion is based on a misreading of the employer's policy and federal law.

---

[1] The referee also found the claimant was a covered employee under the U.S. Department of Transportation (DOT) and the Federal Aviation Administration (FAA) drug and alcohol testing regulations, which govern drug and alcohol testing for aviation employees performing safety-sensitive functions. *See* 49 C.F.R. §40.1 and 14 C.F.R. §20.105. Though uncontested on appeal, we note the referee's ultimate finding that the claimant was a covered aviation employee is unsupported. While the employer's evidence suggests it employs some covered aviation employees, the evidence does not establish the claimant was among those covered employees. For instance, the employer's witness never asserted the claimant was a covered employee; the claimant's drug test at issue does not specify it was done under the DOT drug testing program, as such tests typically do; and the parties' undisputed evidence regarding the claimant's job duties does not reflect he performed any of the safety-sensitive functions provided under 14 C.F.R. §120.105.

B. Legal Analysis

Workers who are discharged for "misconduct connected with work" are disqualified from benefits. §443.101(1)(a), Fla. Stat. As relevant here, misconduct is statutorily defined as follows:

> (e)1. A violation of an employer's rule, unless the claimant can demonstrate that:
> a. He or she did not know, and could not reasonably know, of the rule's requirements;
> b. The rule is not lawful or not reasonably related to the job environment and performance; or
> c. The rule is not fairly or consistently enforced.

§443.036(29)(e)1., Fla. Stat. ("subparagraph (e)").

The employer carries the initial burden to establish that a rule violation occurred; if established the burden shifts to the claimant to show the applicability of one of the three enumerated defenses. *Id. See also Critical Intervention Servs. v. Reemployment Assistance Appeals Comm'n*, 106 So. 3d 63, 66 (Fla. 1st DCA 2013); *Crespo v. Reemployment Assistance Appeals Comm'n*, 128 So. 3d 49 (Fla. 3d DCA 2012).

Here, the referee concluded the employer did not carry its initial burden to establish a rule violation, based on his findings that "the Employer's policy as it is written in the Substance Abuse Testing Program *explicitly exempts* the use of a controlled substance which has been prescribed by a doctor" and that the claimant's medical marijuana certification is a "prescription" that falls within the policy's exemption. These findings are without support in both fact and law.

First, there is no exemption for medical marijuana in the employer's drug testing policy, much less one that is "explicit." The referee reaches this erroneous factual conclusion that an exemption exists by relying on the *definition* of "*Drugs and Illicit* Drugs" as set forth in the employer's document detailing its drug testing program:

> 3. **DEFINITIONS**
>
> 3.3 **Drugs and Illicit Drugs**: Refers to and includes all drugs, controlled substances, mood or mind altering substances, "look alike" substances, designer and synthetic drugs, and certain inhalants, any of which have not been prescribed by a licensed physician/dentist for the person taking or in possession of the drug or substance, or which have not been used as prescribed. Specific controlled substances included in test panels are marijuana, cocaine, opiates, amphetamines, phencyclidine (PCP), expanded opiates (hydrocodone and oxycodone), barbiturates, benzodiazepines, propoxyphene, and methadone.

The referee's conversion of this definition into an exemption was error.

The employer's drug-free workplace statement and the CBA make plain that there is no such exemption for a valid medical marijuana certification under state law. Both documents provide that the employer will maintain a drug-free workplace program consistent with the federal Drug-Free Workplace Act and the DoD regulations. Both laws require the testing of "illegal drugs" as that term is defined by federal law, *see* 41 U.S.C. §706(3) and 48 C.F.R. §252.223-7004(a)(a), respectively, and federal law classifies marijuana as an illegal Schedule I substance, 21 U.S.C. §§802(6) and 812(1). No prescriptions may be written for a Schedule I substance under federal law. 21 U.S.C. §829.

Not only did the claimant sign an acknowledgement of having received the employer's policy providing that federal law is controlling, the claimant, through the ratified CBA, *agreed* that federal law will be controlling. *Koenig v. Tyler*, 360 So. 2d 104, 106 (Fla. 3d DCA 1978) (employees that designate a union to be their agent for collective bargaining purposes "are bound by agreements made by the [u]nion on their behalf"). Thus, the referee's finding that medical marijuana under *state* law is a valid prescription recognized under the employer's policy is erroneous.[2]

A plain reading of the employer's drug testing rule establishes the claimant's positive drug test result for marijuana amounted to a rule violation that would result in the penalty of termination from employment. Consequently, the employer met its initial burden to establish the claimant was discharged for misconduct under the plain language of subparagraph (e).

The burden thus shifted to the claimant to establish one of the statute's enumerated defenses. §443.036(29)(e)1.a.-c., Fla. Stat. At the hearing, the claimant did not clearly argue that any of the defenses were applicable. At best, the claimant's testimony indicates that he did not know medical marijuana under state law was not a valid medical excuse under the employer's drug-free workplace policy that followed federal law; however, the claimant's assertion in this regard, alone, does not establish a defense. That is, subparagraph (e) provides a defense to misconduct where the claimant "did not know, *and could not reasonably know*, of the rule's requirements." §443.036(29)(e)1.a., Fla. Stat. (emphasis added). Because the claimant neither asserted nor established that he "could not *reasonably* know" the requirements of the employer's rule, the claimant has not met his shifted burden.[3]

---

[2] On appeal and before the referee, the employer asserts that it is located on a federal enclave on which all law is federal law. This issue was not factually developed on the record. However, because we conclude that the employer's policy and CBA make clear that federal law is controlling, it is unnecessary to remand this case for a supplemental evidentiary hearing on the federal enclave issue.

[3] The claimant does not argue that the rule was not fairly enforced because his positive drug test result was occasioned by his lawful medical marijuana use under state law. §443.036(29)(e)1.c., Fla. Stat. (providing a defense to a rule violation where "[t]he rule is not fairly or consistently enforced"). We thus do not address that defense here.

While the claimant's rule violation is disqualifying misconduct, we write further to discuss the applicability of subparagraph (a) of the statutory definition, which defines misconduct in pertinent part as follows:

> Conduct demonstrating a conscious disregard of an employer's interests and found to be a deliberate violation or disregard of the reasonable standards of behavior which the employer expects of his or her employee.

§443.036(29)(a), Fla. Stat. The Commission has previously held that lawful use of medical marijuana under state law is *not* misconduct under subparagraph (a) *unless* one of the following factors is established: 1) the employer's rule prohibiting the use of medical marijuana was mandated under state or federal law; 2) in the absence of a governmental mandate, the claimant was otherwise performing or expected to perform job duties that were considered safety sensitive or among a special risk category; and 3) the claimant showed any signs of impairment or drug use at work or other circumstances giving rise to reasonable suspicion of impairment or drug use at work. R.A.A.C. Order No. 19-00964, at p. 6 (Nov. 4, 2019).

Here, the first two factors were established: the employer's drug-free workplace program was mandated by federal law, and the claimant's job duties were safety sensitive as he was responsible for maintaining survival gear and emergency equipment used by pilots, navigators, and students.[4] Under such circumstances, we conclude the claimant's policy violation demonstrated a conscious disregard of the employer's interests in maintaining a drug-free workplace program in compliance with federal law and the reasonable standards of behavior that the employer expected from the claimant tasked with safety-sensitive job duties.

Because the employer discharged the claimant for misconduct connected with work, the claimant is disqualified from receipt of benefits beginning August 8, 2021, the next five succeeding weeks, and until he becomes reemployed and earns $4,675. §443.101(1)(a), Fla. Stat.; Fla. Admin. Code R. 73B-11.020.

---

[4] With respect to the federal mandate, we note the applicable federal laws do not require an employer to discharge an employee who tests positive, as pointed out in the referee's decision. However, we will not second guess the parties' agreement regarding the level of discipline an employee will face for a positive drug test result. *See* §381.986(15), Fla. Stat. (governing medical marijuana and providing "This section does not limit the ability of an employer to establish, continue or enforce a drug-free workplace program or policy").

III.

We turn next to the overpayment issue. The referee did not make any findings regarding the issue of overpayment; however, the issue was addressed on the record. The claimant offered undisputed evidence that he received benefits in the amount of $275 for the weeks ending August 21, 2021, through October 30, 2021—the dates covered by the Department of Economic Opportunity's initial determination underlying this appeal. Based on this undisputed evidence, and our holding that the claimant is retroactively disqualified from benefits, we conclude the claimant was not entitled to receive benefits for the weeks ending August 21, 2021, through October 30, 2021, and the benefits he received during this period are overpayments that he is liable to repay. §443.151(6)(b), Fla. Stat.

IV.

The decision of the appeals referee is reversed. The claimant is disqualified from receipt of benefits for the week ending August 8, 2021, the next five succeeding weeks, and until he becomes reemployed and earns $4,675. The benefits the claimant received for the weeks ending August 21, 2021, through October 30, 2021, are overpayments that he is liable to repay.

It is so ordered.

REEMPLOYMENT ASSISTANCE APPEALS COMMISSION

Charles T. Faircloth, Jr., Chairman
Joseph D. Finnegan, Member

This is to certify that on
11/8/2022
the above order was filed in the office of the Clerk of the Reemployment Assistance Appeals Commission, and a copy mailed to the last known address of each interested party.
By: Veronica Jones
Deputy Clerk

DEPARTMENT OF ECONOMIC OPPORTUNITY
REEMPLOYMENT ASSISTANCE PROGRAM
PO BOX 5250
TALLAHASSEE, FL 32314 5250

*272057280 *

Docket No.0092 9601 72-06 Jurisdiction: §443.151(4)(a)&(b) Florida Statutes

CLAIMANT/Appellant ***EMPLOYER/Appellee***

APPEARANCES:

Claimant

DECISION OF APPEALS REFEREE

Important appeal rights are explained at the end of this decision.

Derechos de apelación importantes son explicados al final de esta decisión.

Yo eksplike kèk dwa dapèl enpòtan lan fen desizyon sa a.

c

Issues Involved: SEPARATION: Whether the claimant was discharged for misconduct connected with work or voluntarily left work without good cause as defined in the statute, pursuant to Sections 443.101(1), (9), (10), (11), (13); 443.036(29), Florida Statutes; Rule 73B-11.020, Florida Administrative Code.

NON-APPEARANCE: Whether there is good cause for proceeding with an additional hearing, pursuant to Florida Administrative Code Rules 73B-20.016; 20.017.

Findings of Fact: The Claimant submitted an application for reemployment assistance benefits effective August 8, 2021, establishing a weekly benefit amount of $275. The Claimant began work for [the Employer] beginning on or about August 28, 2017 through on or about August 3, 2021. The Employer is a federal defense contractor subject to Department of Transportation ("DOT"), Federal Aviation Administration ("FAA"), and Department of Defense ("DOD") regulations. Pursuant to these regulations, the Employer is required to maintain a drug free workplace and to test certain covered individuals in order to maintain its contract. The Employer maintained a policy against the use of drugs. In order to enforce this policy, the Employer would conduct pre-employment drug screenings, random drug tests, drug tests after accidents or if there was a suspicion of drug use. These regulations also generally require the removal of an employee in a "safety sensitive position" until they test negative for drug use.

The Claimant's job title during employment with the Employer was aircraft survival equipment mechanic. The Claimant's job duties included: everyday maintenance and service of survival gear for pilots, ensuring parachutes were properly attached for deployment, general responsibility for pilot equipment items, and collateral duties. The Claimant's position is considered safety sensitive pursuant to DOT and FAA regulation. During his employment, the Claimant was a member of the International Association of Machinists and Aerospace Workers, AFL-CIO Local Lodge No. 2777 ("Union") and was subject to its collective bargaining agreement ("agreement") with the Employer. The agreement stipulates the Employer shall maintain a drug-free workplace policy which complies with the Drug-Free workplace Act of 1988 and the requirements of the Department of Defense. The agreement further stipulates that any employee who tests positive for drug use will be terminated. The agreement does not define what qualifies as a drug.

On August 28, 2017, the Claimant signed and acknowledged the Employer's "Drug-Free Workplace" statement. The statement indicates marijuana as one of the substances which is tested for on the 5-panel test. The statement does not otherwise define "drugs" and maintains any employee failing a drug test shall be discharged. The Employer's Substance Abuse Testing Program Policy defines "Drugs and Illicit Drugs" as "…all drugs, controlled substances…any of which have not been prescribed by a licensed physician/dentist for the person taking or in possession of the drug or substance, or which have not been used as prescribed. Specific controlled substances included in test panels are marijuana…" On August 29, 2017, the Claimant signed and acknowledged the Employer's Checklist of New Hire Documentation confirming the Claimant's receipt of both the "Drug-Free Workplace" statement and the Employer's Substance Abuse Testing Program Policy. This checklist categorises the "Drug-Free Workplace" statement as a personnel document, not as a policy and procedure.

On August 3, 2021, the Claimant was randomly selected to participate in a drug test. The Claimant provided a sample which tested positive for marijuana. The Claimant admitted to his marijuana use to the Employer and indicated he had been approved for a Medical Marijuana Use Registry Patient card ("marijuana card") as of June 21, 2021 through June 21, 2022. During this period, the Claimant received prescriptions from a doctor authorizing the Claimant's use of marijuana. The Claimant's use of medical marijuana strictly conformed to the doctor's ordered prescription use. The Claimant was prescribed medical marijuana following shoulder reconstruction surgery in order to aid the Claimant in falling asleep at night. The doctor did not offer the Claimant an alternative prescription.

The Claimant was aware of the federal regulations which might require his removal pursuant to a positive drug test. The Claimant believed that under the Employer's policies there was an exception for drugs which are prescribed by a doctor.

The Employer placed the Claimant on administrative leave on August 3, 2021, and later discharged the Claimant under their policy on August 9, 2021. The Claimant claimed and received benefits for the week ending August 21, 2021 through the week ending October 30, 2021.

Conclusions of Law: Under Florida's Reemployment Assistance law, misconduct connected with work, irrespective of whether the misconduct occurs at the workplace or during working hours, includes, but is not limited to, the following, which may not be construed in pari materia with each other:

(a) Conduct demonstrating conscious disregard of an employer's interests and found to be a deliberate violation or

disregard of the reasonable standards of behavior which the employer expects of his or her employee. Such conduct may include, but is not limited to, wilful damage to an employer's property that results in damage of more than $50; theft of employer property or property of a customer or invitee of the employer.

(b) Carelessness or negligence to a degree or recurrence that manifests culpability, or wrongful intent, or shows an intentional and substantial disregard of the employer's interest or of the employee's duties and obligations to his or her employer.

(c) Chronic absenteeism or tardiness in deliberate violation of a known policy of the employer or one or more unapproved absences following a written reprimand or warning relating to more than one unapproved absence.

(d) A willful and deliberate violation of a standard or regulation of this state by an employee of an employer licensed or certified by this state, which violation would cause the employer to be sanctioned or have its license or certification suspended by this state.

(e) 1. A violation of an employer's rule, unless the claimant can demonstrate that:

a. He or she did not know, and could not reasonably know, of the rule's requirements;

b. The rule is not lawful or not reasonably related to the job environment and performance; or

c. The rule is not fairly or consistently enforced.

2. Such conduct may include, but is not limited to, committing criminal assault or battery on another employee, or on a customer or invitee of the employer; or committing abuse or neglect of a patient, resident, disabled person, elderly person, or child in her or his professional care.

The burden of proving misconduct is on the employer. Lewis v. Unemployment Appeals Commission, 498 So.2d 608 (Fla. 5th DCA 1986). The proof must be by a preponderance of competent substantial evidence. De Groot v. Sheffield, 95 So.2d 912 (Fla. 1957); Tallahassee Housing Authority v. Unemployment Appeals Commission, 483 So.2d 413 (Fla. 1986).

DOT and FAA regulations govern drug testing for aviation employees performing safety-sensitive functions, which include aircraft maintenance and preventative maintenance. See 49 C.F.R. §40.1 and 14 C.F.R. §120.105. The DOT and FAA define marijuana as a covered drug for which employers must test covered individuals. 49 C.F.R. §40.3 and 14 C.F.R. § 120.107. DOT and FAA regulations require the testing of covered employees which include those in “safety-sensitive” positions. 49 C.F.R. §40.3 and 14 CFR § 120.105. The record clearly shows the Claimant is a covered employee in a safety sensitive position which the Employer must test for drug use pursuant to DOT and FAA regulations. DOT and FAA regulations require the removal of an employee who tests positive for drug use until the employee tests negative.*See* 49 C.F.R. §40.305 and 14 C.F.R. § 120.111(e)1. However, the regulations do not require the discharge of the employee following a positive drug test result and allow the employer the discretion in determining whether to retain the employee subject to a collective bargaining agreement or other contractual obligations. *See Id*.

Further, DOD regulations require federal contractors working in national security to implement drug-free workplace programs that include drug testing of “illegal drugs” in sensitive positions. 48 C.F.R. §252.223-7004. “Illegal drugs” is defined as “controlled substances included in Schedules I and II, as defined by section 802(6) of title 21 of the United States Code, the possession of which is unlawful under chapter 13 of that title. The term “illegal drugs” does not mean the use of a controlled substance pursuant to a valid prescription or other uses authorized by law.” *Id*. DOD regulations also require the removal of an employee who tests positive for illegal drug use, do not require the discharge of an employee who tests positive for illegal drug use and leaves discretion to the employer on whether to retain or discharge an employee subject to a collective bargaining agreement. *Id*.

Therefore, the Employer’s policies regarding the testing and removal of employees in a safety sensitive position following a positive drug test result are mandated by federal law.

The record shows the Claimant was discharged by the Employer following a positive drug test result. The record shows the

Claimant was randomly selected to participate in the drug test and was not under any suspicion of drug use. At the time of the positive drug test, the Claimant was registered in Florida's Medical Marijuana Use Registry Patient data base and had a valid medical prescription from a doctor to use medical marijuana. The Claimant's marijuana use was strictly used in a manner which was prescribed by his doctor. The Claimant did not make use of medical marijuana while at work. Thus, the Claimant's conduct does not constitute misconduct under Section 443.036(29)(a)-(d), Florida Statutes. The record shows the Employer is required pursuant to DOT, FAA, and DOD regulation to maintain a drug-free workplace and to maintain policies and procedures to test covered employees for drug use. The record further shows the Claimant is a covered individual pursuant to these regulations as an employee working in a "safety sensitive" position. The record further shows the Employer's policy regarding drug testing can be found under the Substance Abuse Testing Program. The Employer's Substance Abuse Testing Program policy defines "Drugs and Illicit Drugs" in relevant part as "…all drugs, controlled substances…any of which have not been prescribed by a licensed physician/dentist for the person taking or in possession of the drug or substance, or which have not been used as prescribed. Specific controlled substances included in test panels are marijuana…" Therefore, the Employer's policy as it is written in the Substance Abuse Testing Program explicitly exempts the use of a controlled substance which has been prescribed by a doctor. Therefore, the Claimant's conduct cannot be said to constitute misconduct pursuant to Section 443.036(29)(e), Florida Statutes. Accordingly, it is held the Claimant was discharged for reasons other than misconduct connected with the work and is not subject to disqualification from the receipt of benefits pursuant to Florida law.

The Employer further argues that the military base from which it operates is a federal enclave and therefore should not be subject to Florida's unemployment law. However, the employer does not point to any evidence or legal basis for why this should be the case, and so the Employer has failed to show that they are exempt from Florida unemployment law.

The hearing officer was presented with conflicting testimony regarding material issues of fact and is charged with resolving these conflicts. The Reemployment Assistance Appeals Commission set forth factors to be considered in resolving credibility questions. These include the witness' opportunity and capacity to observe the event or act in question; any prior inconsistent statement by the witness; witness bias or lack of bias; the contradiction of the witness' version of events by other evidence or its consistency with other evidence; the inherent improbability of the witness' version of events; and the witness' demeanor. Upon considering these factors, the hearing officer finds the testimony of the Claimant to be more credible. Therefore, material conflicts in the evidence are resolved in favor of the Claimant.

Furthermore, the law provides that a claimant who was not entitled to benefits received must repay the overpaid benefits to the Department. The law does not permit waiver of recovery of overpayments.

The record shows the Claimant claimed and received benefits the week ending August 21, 2021 through the week ending October 30, 2021. Further, the record shows the Claimant is not disqualified from receiving benefits for the week ending August 21, 2021 through the week ending October 30, 2021. Accordingly, the benefits which the Claimant received for the week ending August 21, 2021 through the week ending October 30, 2021 do not constitute overpayments.

Decision: The Notice of Approval dated December 1, 2021, holding the Claimant was discharged for misconduct connected with work and is therefore disqualified from receiving benefits for the period beginning August 8, 2021 through September 11, 2021, and until the Claimant has earned $4675, is **REVERSED**. The Claimant is qualified to receive benefits. Further, the benefits which the Claimant received for the week August 21, 2021 through the week ending October 30, 2021, do not constitute overpayments.

If this decision disqualifies and/or holds the claimant ineligible for benefits already received, the claimant will be required to repay those benefits. The specific amount of any overpayment will be calculated by the department and set forth in a separate overpayment determination, unless specified in this decision. However, the time to request review of this decision is as shown above and is not stopped, delayed or extended by any other determination, decision or order.

This is to certify that a copy of the above decision was distributed/mailed to the last known address of each interested party on August 10, 2022.

A. Villoria
Appeals Referee

By: Nancy Fishman

Nancy Fishman, Deputy Clerk

IMPORTANT - APPEAL RIGHTS: This decision will become final unless a written request for review or reopening is filed within 20 calendar days after the distribution/mailed date shown. If the 20th day is a Saturday, Sunday or holiday defined in F.A.C. 73B-21.003(4), filing may be made on the next day that is not a Saturday, Sunday or holiday. If this decision disqualifies and/or holds the claimant ineligible for benefits already received, the claimant will be required to repay those benefits. The specific amount of any overpayment will be calculated by the Department and set forth in a separate overpayment determination. However, the time to request review of this decision is as shown above and is not stopped, delayed or extended by any other determination, decision or order.

A party who did not attend the hearing for good cause may request reopening, including the reason for not attending, at connect.myflorida.com or by writing to the address at the top of this decision. The date of the confirmation page will be the filing date of a request for reopening on the Department's Web Site.

A party who attended the hearing and received an adverse decision may file a request for review to the Reemployment Assistance Appeals Commission, 1211 Governors Square Boulevard, Suite 300, Tallahassee, FL 32301-2975; (Fax: 850-488-2123); **https://raaciap.floridajobs.org.** If mailed, the postmark date will be the filing date. If faxed, hand-delivered, delivered by courier service other than the United States Postal Service, or submitted via the Internet, the date of receipt will be the filing date. To avoid delay, include the docket number and the last five digits of the claimant's social security number. A party requesting review should specify any and all allegations of error with respect to the referee's decision, and provide factual and/or legal support for these challenges. Allegations of error not specifically set forth in the request for review may be considered waived.

There is no cost to have a case reviewed by the Commission, nor is a party required to be represented by an attorney or other representative to have a case reviewed. The Reemployment Assistance Appeals Commission has not been fully integrated into the Department's CONNECT system. While correspondence can be mailed or faxed to the Commission, no correspondence can be submitted to the Commission via the CONNECT system. All parties to an appeal before the Commission must maintain a current mailing address with the Commission. A party who changes his/her mailing address in the CONNECT system must also provide the updated address to the Commission, in writing. All correspondence sent by the Commission, including its final order, will be mailed to the parties at their mailing address on record with the Commission.

IMPORTANTE - DERECHOS DE APELACIÓN: Esta decisión pasará a ser final a menos que una solicitud por escrito para revisión o reapertura se registre dentro de 20 días de calendario después de la distribución/fecha de envìo marcada en que la decisión fue remitida por correo. Si el vigésimo (20) día es un sábado, un domingo o un feriado definidos en F.A.C. 73B-21.003(4), el registro de la solicitud se puede realizar en el día siguiente que no sea un sábado, un domingo o un feriado. Si esta decisión descalifica y/o declara al reclamante como inelegible para recibir beneficios que ya fueron recibidos por el reclamante, se le requerirá al reclamante rembolsar esos beneficios. La cantidad específica de cualquier sobrepago [pago excesivo de beneficios] será calculada por la Agencia y establecida en una determinación de pago excesivo de beneficios que será emitida por separado. Sin embargo, el límite de tiempo para solicitar la revisión de esta decisión es como se establece anteriormente y dicho límite no es detenido, demorado o extendido por ninguna otra determinación, decisión u orden.

Una parte que no asistió a la audiencia por una buena causa puede solicitar una reapertura, incluyendo la razón por no haber comparecido en la audiencia, en connect.myflorida.com o escribiendo a la dirección en la parte superior de esta decisión. La fecha de la página de confirmación será la fecha de presentación de una solicitud de reapertura en la página de Internet del Departamento.

Una parte que asistió a la audiencia y recibió una decisión adversa puede registrar una solicitud de revisión con la Comisión de Apelaciones de Servicios de Reempleo; Reemployment Assistance Appeals Commission, 1211 Governors Square Boulevard, Suite 300, Tallahassee, FL 32301-2975; (Fax: 850-488-2123); **https://raaciap.floridajobs.org**. Si la solicitud es enviada por correo, la fecha del sello de la oficina de correos será la fecha de registro de la solicitud. Si es enviada por telefax, entregada a mano, entregada por servicio de mensajería, con la excepción del Servicio Postal de Estados Unidos, o realizada vía el Internet, la fecha en la que se recibe la solicitud será la fecha de registro. Para evitar demora, incluya el número de expediente [*docket number*] y los últimos cinco dígitos del número de seguro social del reclamante. Una parte que solicita una revisión debe especificar cualquiera y todos los alegatos de error con respecto a la decisión del árbitro, y proporcionar fundamentos reales y/o legales para substanciar éstos desafíos. Los alegatos de error que no se establezcan con especificidad en la solicitud de revisión pueden considerarse como renunciados.

No hay ningún costo para tener un caso revisado por la Comisión, ni es requerido que una parte sea representado por un abogado u otro representante para poder tener un caso revisado. La Comisión de Apelación de Asistencia de Reempleo no ha sido plenamente integrado en el sistema CONNECT del Departamento. Mientras que la correspondencia puede ser enviada por correo o por fax a la Comisión, ninguna correspondencia puede ser sometida a la Comisión a través del sistema CONNECT. Todas las partes en una apelación ante la Comisión deben mantener una dirección de correo actual con la Comisión. La parte que cambie su dirección de correo en el sistema CONNECT también debe proporcionar la dirección actualizada a la Comisión, por escrito. Toda la correspondencia enviada por la Comisión, incluida su orden final, será enviada a las partes en su dirección de correo en el registro con la Comisión.

ENPÒTAN - DWA DAPÈL: Desizyon sa a ap definitif sòf si ou depoze yon apèl nan yon delè 20 jou apre dat distribisyon/postaj. Si 20yèm jou a se yon samdi, yon dimanch oswa yon jou konje, jan sa defini lan F.A.C. 73B-21.003(4), depo an kapab fèt jou aprè a, si se pa yon samdi, yon dimanch oswa yon jou konje. Si desizyon an diskalifye epi/oswa deklare moun k ap fè demann lan pa kalifye pou alokasyon li resevwa deja, moun k ap fè demann lan ap gen pou li remèt lajan li te resevwa a. Se Ajans lan k ap kalkile montan nenpòt ki peman anplis epi y ap detèmine sa lan yon desizyon separe. Sepandan, delè pou mande revizyon desizyon sa a se delè yo bay anwo a; Okenn lòt detèminasyon, desizyon oswa lòd pa ka rete, retade oubyen pwolonje dat sa a.

Yon pati ki te gen yon rezon valab pou li pat asiste seyans lan gen dwa mande pou yo ouvri ka a ankò; fòk yo bay rezon yo pat ka vini an epi fè demann nan sou sitwèb sa a, connect.myflorida.com oswa alekri nan adrès ki mansyone okomansman desizyon sa a. Dat cofimasyon page sa pral jou ou ranpli deman pou reouvewti dan web sit depatman.

Yon pati ki te asiste odyans la epi li resevwa yon desizyon negatif kapab soumèt yon demann pou revizyon retounen travay Asistans Komisyon Apèl la, Reemployment Assistance Appeals Commission, 1211 Governors Square Boulevard, Suite 300, Tallahassee, FL 32301-2975; (Faks: 850-488-2123); https://raaciap.floridajobs.org. Si poste a, dat tenm ap dat li ranpli aplikasyon. Si fakse, men yo-a delivre, lage pa sèvis mesaje lòt pase Etazini Sèvis nan Etazini Nimewo, oswa soumèt sou Entènèt la, dat yo te resevwa ap dat li ranpli aplikasyon. Pou evite reta, mete nimewo rejis la ak senk dènye chif nimewo sekirite sosyal demandè a sosyal demandè a sekirite. Yon pati pou mande revizyon ta dwe presize nenpòt ak tout akizasyon nan erè ki gen rapò ak desizyon abit la, yo epi bay sipò reyèl ak / oswa legal pou defi sa yo. Alegasyon sou erè pa espesyalman tabli nan demann nan pou revizyon yo kapab konsidere yo egzante.

Pa gen okenn kou pou Komisyon an revize yon ka, ni ke yon pati dwe reprezante pa yon avoka oubyen lòt reprezantan pou ke la li a revize. Komisyon Apèl Asistans Reyanbochaj pa te entegre antyèman nan sistèm CONNECT Depatman an. Byenke korespondans kapab fakse oubyen pòste bay Komisyon an, okenn korespondans pa kapab soumèt bay Komisyon an atravè sistèm CONNECT. Tout pati ki nan yon apèl devan Komisyon an dwe mentni yon adrès postal ki ajou avèk Komisyon an. Yon pati ki chanje adrès postal li nan sistèm CONNECT la dwe bay Komisyon an adrès ki mete ajou a tou. Tout korespondans ke Komisyon an voye, sa enkli manda final li, pral pòste voye bay pati yo nan adrès postal yo genyen nan achiv Komisyon an.
