STATE OF FLORIDA
REEMPLOYMENT ASSISTANCE APPEALS COMMISSION

In the matter of:

Claimant/Appellee

R.A.A.C. Order No. 14-06225

vs.

Referee Decision No. 0023088173-05U

Employer/Appellant

ORDER OF REEMPLOYMENT ASSISTANCE APPEALS COMMISSION

This case comes before the Commission for disposition of the employer's appeal pursuant to Section 443.151(4)(c), Florida Statutes, of a referee's decision which held the claimant not disqualified from receipt of benefits.

The referee's findings of fact state as follows:

> The claimant began work as a head softball coach for the state college on June 21, 1993. The claimant reported to the director of wellness. The claimant was an annual contract employee and the contract expired annually on June 30, and was either renewed or not renewed by the employer's board. In April 2014, the student-athlete players reported that the claimant took money from them for rent, and took a portion of cash from their per diem meal stipends, and made them pay her $300 for their airline tickets to the softball tournament in Las Vegas. The employer conducted an internal investigation of the reports. The employer placed the claimant on paid administrative leave [effective] April 11, 2014. On May 12, 2014, the findings of the internal investigation were reported to the [local county sheriff]. The [local county sheriff] detective investigated the report. The Sheriff's report indicated that the employer paid the meal stipend for each of the players and the coaches. The report indicated that the claimant took a portion of each stipend for her personal use. The Sheriff's report indicated that the employer paid for the airline tickets for each of the student-athletes in full for the team's trip to Las Vegas for the softball tournament. The Sheriff's report found that the claimant required the student athletes to pay $300 for the fully paid airline tickets and that she took the money for personal use. The Sheriff

> arrested and charged the claimant with theft by misappropriation of the student-athlete players' funds. The claimant was not discharged by the employer and she remained on paid leave. The claimant's contract to provide services for the employer was not renewed by the board. On June 30, 2014, the employer separated the claimant from work for the employer when the contract was not renewed. The claimant expects to attend court proceedings on September 11, 2014, and enter a plea of not guilty.

Based on these findings, the referee held the claimant was discharged for reasons other than misconduct connected with work. Upon review of the record and the arguments on appeal, the Commission concludes the referee did not develop the record sufficiently, incorrectly evaluated the evidence, made numerous legal errors, and failed to apply a provision of the reemployment assistance law, resulting in the claimant being denied a fair hearing; consequently, the case must be remanded.

Our review reveals four errors that must be addressed on remand, by additional record development and the drafting of more detailed findings and conclusions. *First*, the referee apparently erroneously concluded that, because the claimant was separated when her contract was not renewed, the employer did not prove the claimant was discharged for misconduct. *Second*, the referee did not develop the record, make findings, or reach legal conclusions regarding the issue of whether the claimant failed to preserve her employment by failing to cooperate with the employer's internal investigation or failing to utilize other procedures to contest her separation. *Third*, the referee erroneously concluded that the narrative summary of the Sheriff's investigative report offered into evidence by the employer was not competent evidence upon which to base a finding of fact. *Fourth*, the referee failed to properly advise the claimant of her rights under Section 443.171(8), Florida Statutes, and caution her regarding her failure to testify under the protection of that provision. Each of these issues will be discussed in detail in this order.

1. The Nature of the Claimant's Separation

In both the decision's findings of fact and conclusions of law, the referee made note of the fact that the employer did not discharge the claimant immediately upon learning of the alleged theft, but placed the claimant on paid leave until the expiration of her contract, which was not renewed. The import of these findings and conclusions of the referee's decision is not clear. The issue in the case is not *how* the claimant was separated, but *why* she was separated and, specifically, whether she was discharged for misconduct connected with work. There is no question that the claimant was "discharged" from the employer within the meaning of the statute when her contract expired and was not renewed. The issue, however, is *why* the

claimant's contract was not renewed, and whether it was because of the employer's belief that she had engaged in misconduct. To the extent the referee's decision implies that the employer's reasons for not renewing the contract after its expiration cannot be considered in determining whether there was a "discharge for misconduct" within the meaning of the reemployment assistance law, the decision is erroneous.

The employer's witness testified at the hearing that the claimant's contract was not renewed because of the allegations of theft and her subsequent arrest. Specifically, the employer's witness testified that the employer's board chose not to discharge the claimant immediately, but to maintain her on leave status until her contract expired. The referee did not clarify the basis for the employer's witness' knowledge of the board's actions. On remand, the referee must further develop the record, consider any additional evidence offered by the parties, and make specific findings as to whether the employer decided not to renew the claimant's contract because of its belief that she had engaged in the actions that are alleged to be misconduct. The referee must then reach appropriate conclusions, keeping in mind that the statute merely requires a causal link between a separation and perceived misconduct in that the employer must prove that the claimant "has been discharged by the employing unit for misconduct connected with his or her work." §443.101(1)(a), Fla. Stat. If the record evidence demonstrates that the employer's reason for not renewing the claimant's contract was because it believed she engaged in the alleged fiscal improprieties, the employer has established a sufficient causal linkage between her discharge and the alleged misconduct. The issue then becomes whether the claimant's actions amount to disqualifying misconduct under the reemployment assistance law.

2. The Issue of Preservation of Employment

In considering the evidence offered in this case, and the issues raised by that evidence, the referee overlooked a potentially dispositive issue. The employer's witness testified that the claimant declined to be interviewed in the employer's internal investigation prior to the case being turned over to law enforcement. The referee did not ask any follow-up questions regarding this comment, nor did he question the claimant as to whether she was offered an opportunity to respond to the allegations made by the students. On remand, the referee must develop the record and make specific findings as to what type of internal investigation, if any, the college conducted; whether the claimant was asked, or otherwise given an opportunity, to provide information responsive to the allegations made against her; whether the claimant declined to be interviewed regarding the allegations and, if so, why; and whether she provided any other responsive information.

Under the reemployment assistance law, "whenever feasible, an individual is expected to expend reasonable efforts to preserve his employment." *Glenn v. Unemployment Appeals Commission,* 516 So. 2d 88, 89 (Fla. 3d DCA 1987). While the *Glenn* doctrine is typically applied in voluntary quit cases, it is also applicable in discharge cases. In *Glenn*, the claimant was accused by a coworker of trying to run over the coworker with a truck. As a result of the employer's investigation, the employer recommended the claimant's dismissal from employment, and provided the claimant a copy of the disciplinary action report. That document further informed the claimant that he could respond orally or in writing to the allegations against him and that his response would be made a part of the report to be considered prior to the final determination regarding the recommendation. The claimant declined to provide any information. The court held that "[i]n allowing his dismissal to be implemented forthwith because he would not appropriately acknowledge or respond to the disciplinary action report recommendation, the claimant chose not to avail himself of an accessible avenue by which he might have retained his employment." 516 So. 2d at 89-90. The court concluded that the claimant had effectively voluntarily surrendered his employment and was disqualified, even though the facts showed that the claimant had not committed the alleged assault.

In this case, the claimant's counsel offered in cross-examination of the employer's witness several possible explanations for the claimant's behavior. These cross-examination questions were not evidence, but if the claimant could have provided such explanations to the employer during the internal investigation, but failed to, knowing that her position was potentially at stake, the claimant may have failed to take reasonable steps to preserve her employment.

Additionally, although it is not clear whether the claimant had any opportunity to file a grievance regarding being placed on administrative leave with pay, or to appear before the board when it discussed her employment with the college, if she failed to take advantage of opportunities to preserve her employment in those contexts, she would also be subject to disqualification. *See Board of County Commissioners of Citrus County v. Florida Department of Commerce*, 370 So. 2d 1209 (Fla. 2d DCA 1979).

On remand, the referee must develop the record further regarding possible opportunities the claimant had to provide exculpatory information to the employer prior to the employer making its decision not to renew her contract. The referee must also reach conclusions as to whether, under *Glenn* and *Board of County Commissioners*, the claimant failed to take adequate steps to preserve her employment. We note that, while a party has an absolute right to refrain from answering questions on advice of counsel or to avoid self-incrimination, an

individual is not immune from the civil consequences of doing so. *Baxter v. Palmigiano*, 425 U.S. 308, 318 (1976). Florida courts have made clear in several contexts that a party cannot refuse to answer relevant questions on the basis of Fifth Amendment privilege, and be immune from the consequences of that refusal. *Zabrani v. Riveron*, 495 So. 2d 1195, 1199 (Fla. 3d DCA 1986) (interpleader action over insurance proceeds resulting from claim filed by party invoking privilege); *Waskin v. Waskin*, 452 So. 2d 999, 1001 (Fla. 3d DCA 1984) (civil contempt proceeding for failure to pay alimony against individual claiming privilege); *City of St. Petersburg v. Houghton*, 362 So. 2d 681, 685 (Fla. 2d DCA 1978) (civil suit for replevin of seized currency). While this precedent applies to the claimant's assertion of the privilege in this proceeding, we conclude that the rule should also be applied where a party fails to provide potentially exculpatory information to the employer during an internal investigation or grievance procedure. Concluding otherwise would allow the claimant to use her invocation of the Fifth Amendment privilege as a shield in the internal investigation, and thereafter as a sword in the reemployment assistance proceeding. The claimant would have denied the employer the ability to evaluate evidence from which it could have made a more complete, thorough and possibly favorable decision earlier. She would also have denied the employer the ability, if it found her evidence unpersuasive, to develop rebuttal evidence explaining why. We cannot accept the invocation of the privilege in this manner as consistent with Florida law. *See* R.A.A.C. Order No. 14-02355 (November 21, 2014).

3. The Employer's Competent Evidence

As its evidence demonstrating the claimant's culpability for the alleged theft or misappropriation of funds from its student-athletes, the employer introduced several pages of a lengthy Sheriff's Office report which was prepared as a result of the investigation that culminated in the claimant's arrest. The referee referred to the employer's evidence as "a selected 24-page summary from the 204-page sheriff's report." Discussing his view of the Sheriff's report, the referee concluded that "The employer did not show, either by testimony or by the submitted documents[,] that the claimant was culpable of [sic] the theft of the employer's funds."

Contrary to the referee's decision, the employer's proffered summary of the investigation report, combined with the employer's witness' explanation of the relevant procedures of the employer that the claimant allegedly violated, was sufficient to establish a *prima facie* case of misconduct against the claimant. Notwithstanding the referee's characterization of the documents, the record reflects that the employer offered the *entire* narrative summary of the investigation report (pages 10-13). We have held on several occasions that an investigative report, accident report, or arrest report prepared by a law enforcement officer is competent evidence admissible under the hearsay rules pursuant to Section 90.803(8), Florida

Statutes. *See* R.A.A.C. Order No. 13-05159 (October 8, 2013). While the employer did not offer the entire report, apparently consisting of significant amounts of supporting information including financial documents, photographs, and witness statements, so long as the investigative summary was included in its entirety,[1] the document was sufficiently complete to be admissible as competent and probative evidence. Further, since the document contained the electronic equivalent of a signature, the document was self-authenticating under Section 90.902(2), Florida Statutes. While the statements of the witnesses referenced in the report were hearsay within hearsay, they fall within the scope of the "residual exception":

> Notwithstanding s.120.57(1)(c), hearsay evidence may support a finding of fact if: (I) The party against whom it is offered has a reasonable opportunity to review such evidence prior to the hearing; and (II) The appeals referee or special deputy determines, after considering all relevant facts and circumstances, that the evidence is trustworthy and probative and that the interests of justice are best served by its admission into evidence.

§443.151(4)(b)5.c.(I)-(II), Fla. Stat. Under this standard, recorded hearsay is competent evidence if it was previously provided and meets a standard of trustworthiness. As we have previously held, a police report generally merits particular trustworthiness because it is prepared by an individual with no financial interest in the outcome of the appeal hearing, and whose training and job duties require accurate memorialization of statements by others. Additionally, in this case, the summary had extensive support that, although not before the referee, would reasonably have been available to all parties. Accordingly, the referee erred in concluding the summary was not sufficiently probative. Furthermore, while the employer's witness did not have any direct knowledge of the alleged acts of misconduct, she did have knowledge, and presented testimony to that effect, of how the claimant's alleged behavior varied from college policies or practices. Together, the witness' testimony and the investigative summary established a *prima facie* case of misconduct, shifting the burden of production of evidence to the claimant to show the propriety of her conduct. *Alterman Transport Lines, Inc. v. Unemployment Appeals Commission*, 410 So. 2d 568, 569 (Fla. 1st DCA 1982). While the employer could have presented more evidence or stronger evidence, in the absence of

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[1] Certain portions of the report were redacted prior to being sent in. While it appears that may have been done by the employer in order to comply with Family Educational Rights and Privacy Act requirements, the referee should clarify how the redactions were made and why, and determine whether the redactions had any impact upon the probative value of the report and the claimant's ability to respond to it.

testimony by the claimant rebutting the inferences raised by the employer's evidence, the employer would normally have been entitled to a decision in its favor. On remand, the referee should ask further questions of the parties to evaluate the weight that should be given to the report, or any other documentary evidence that is provided.

4. Protection Against Self-Incrimination

Although the employer presented a *prima facie* case of misconduct that the claimant did not rebut, the case must be remanded instead of reversed because the claimant was not advised of her rights and responsibilities under the applicable provision of the reemployment assistance law adopted to address the situation that occurred in this case.

During the hearing before the appeals referee, the claimant refused to testify, invoking her rights under the Fifth Amendment to the United States Constitution. The appeals referee at that point failed to notify the claimant of her protection against self-incrimination pursuant to Section 443.171(8), Florida Statutes, which provides as follows:

> PROTECTION AGAINST SELF-INCRIMINATION – A person is not excused from appearing or testifying, or from producing books, papers, correspondence, memoranda, or other records, before the Department of Economic Opportunity, its tax collection service provider, the commission, or any authorized representative of any of these entities or as commanded in a subpoena of any of these entities in any proceeding before the department, the commission, an appeals referee, or a special deputy on the ground that the testimony or evidence, documentary or otherwise, required of the person may incriminate her or him or subject her or him to a penalty or forfeiture. That person may not be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which she or he is compelled, after having claimed her or his privilege against self-incrimination, to testify or produce evidence, documentary or otherwise, except that the person testifying is not exempt from prosecution and punishment for perjury committed while testifying.

This provision creates a limited "use immunity" from prosecution, similar to that contained in Section 914.04, Florida Statutes. Thus, the testimony given by the witness under the protection of this provision cannot be used against her in court.

When an individual, even one represented by counsel, declines to answer questions by the referee or the opposing party in an appeals hearing on the basis of Fifth Amendment privilege, the referee must advise the individual of this provision and the rights and responsibilities it entails. This provision is designed and intended to permit an individual to testify in an appeals hearing without having that testimony used against him or her in a subsequent criminal proceeding (other than for perjury in the hearing). For this provision to be effective, it is crucial that the referee specifically advise the witness of this provision after the witness indicates an intent to decline to testify on the basis of Fifth Amendment privilege, and make clear on the record that this provision protects their testimony in the proceeding. The referee must leave no doubt that the protections of this provision have attached to the witness in his or her testimony. Once the referee has so advised the witness, failure to answer questions on the basis of Fifth Amendment privilege is no different than any other failure to answer questions. Thus, the witness, or the party he or she represents, is subject to the consequences of failure to answer, which can include adverse inferences, or in this case, a failure to meet her burden of production of evidence. Because the claimant was not so advised and cautioned, she is entitled to an additional hearing.

Because of the number of issues that must be addressed on remand, the referee must schedule a supplemental hearing. While the hearing is not *de novo*, the parties must be given an opportunity to present any additional evidence regarding the issues they intend to present. The referee must develop the record as indicated herein, make appropriate findings of fact, make a credibility determination if necessary, and reach conclusions as to the ultimate issue of whether or not the employer has proven misconduct within the meaning of the reemployment assistance law.

The decision of the appeals referee is vacated and the case is remanded for further proceedings.

It is so ordered.

REEMPLOYMENT ASSISTANCE APPEALS COMMISSION

Frank E. Brown, Chairman
Thomas D. Epsky, Member
Joseph D. Finnegan, Member

This is to certify that on
3/26/2015 ,
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: Juanita Williams
Deputy Clerk

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

*35553278 *

Docket No.0023 0881 73-05 | Jurisdiction: §443.151(4)(a)&(b) Florida Statutes

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

APPEARANCES

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.

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

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

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.

Case History: The claimant filed a timely appeal to the determination dated August 6, 2014, which disqualified the claimant from receipt of benefits. The hearing was scheduled for September 8, 2014. Both parties appeared for the hearing and provided testimony. On September 10, 2014, the referee rendered the decision that reversed the determination thus holding the claimant not disqualified. On September 18, 2014, the employer submitted correspondence requesting to reopen the case. Rather than forwarding the correspondence to the Reemployment Assistance Appeals Commission(RAAC) the referee reopened the case in error. In an attempt to remedy the reopening, the referee issued a narrated dismissal. The narrated dismissal affirmed the disqualification dated August 6, 2014. The narrated dismissal should not have been issued. Instead the referee should have reinstated the September 10, 2014, decision. Because the narrated dismissal affirmed the disqualificationthe Department held the claimant overpaid the benefits the claimant had received. This decision will reinstate the approval for benefits and the claimant will not be overpaid for weeks of benefits affected by the reinstated decision. The employer's correspondence was forwarded to the RAAC for docketing

This decision is rendered to correct the disposition of the case and to reinstate the intended result that the determination dated August 6, 2014, is reversed and the claimant is not disqualified from receipt of benefits.

Findings of Fact: The claimant began work as a head softball coach for the state college on June 21, 1993. The claimant reported to the director of wellness. The claimant was an annual contract employee and the contract expired annually on June 30, and was either renewed or not renewed by the employer's board. In April 2014, the student-athlete players reported that the claimant took money from them for rent, and took a portion of cash from their per diem meal stipends, and made them pay her $300 for their airline tickets to the softball tournament in Las Vegas. The employer conducted an internal investigation of the reports. The employer placed the claimant on paid administrative leave beginning effective on April 11, 2014. On May 12, 2014, the findings of the internal investigation were reported to the . The detective investigated the report. The Sheriff's report indicated that the employer paid the meal stipend for each of the players and the coaches. The report indicated that the claimant took a portion of each stipend for her personal use. The

Sheriff's report indicated that the employer paid for the airline tickets for each of the student-athletes in full for the team's trip to Las Vegas for the softball tournament. The Sheriff's report found that the claimant required the student athletes to pay $300 for the fully paid airline tickets and that she took the money for personal use. The Sheriff arrested and charged the claimant with theft by misappropriation of the student-athlete players' funds. The claimant was not discharged by the employer and she remained on paid leave. The claimant's contract to provide services for the employer was not renewed by the board. On June 30, 2014, the employer separated the claimant from work for the employer when the contract was not renewed. The claimant expects to attend court proceedings on September 11, 2014, and enter a plea of not guilty.

Conclusion of Law: As of May 17, 2013, the Reemployment Assistance Law of Florida defines misconduct connected with work as, 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, willful 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 record shows the employer separated the claimant from work for the employer when the employer did not renew the contract for work. The testimony shows the employer did not discharge the claimant in the face of the claimant's arrest by the sheriff for theft by misappropriation of funds but instead kept the claimant on paid leave. The employer's witness was the coordinator of human resources. The coordinator's testimony regarding the investigations of the claimant relied on the reports from others. The coordinator's testimony regarding the sheriff's report shows that the employer submitted a selected 24 page summary from the 204 page sheriff's report. The claimant's testimony shows she separated from work when her contract for work was not renewed. The claimant did not provide testimony regarding the employer's assertion that the claimant was discharged for theft by misappropriation of the funds. The employer did not show, either by testimony or by the submitted documents that the claimant was culpable of the theft of the employer's funds. The coordinator's testimony is hearsay. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence, or to support a finding if it would be admissible over objection in civil actions. Notwithstanding s. 120.57(1)(c), hearsay evidence may support a finding of fact if: The party against whom it is offered has a

reasonable opportunity to review such evidence prior to the hearing; and the appeals referee or special deputy determines, after considering all relevant facts and circumstances, that the evidence is trustworthy and probative and that the interests of justice are best served by its admission into evidence. In cases of discharge, the burden is on the employer to establish that the discharge was for misconduct connected with work. The employer did not meet the burden of proof. The behavior of the claimant, as described by the claimant, did not meet the statutory definition of misconduct. The claimant is thus not subject to disqualification.

The claimant was represented at the hearing by the attorney. The claimant's attorney charged the claimant a flat rate fee of $500 for preparation and representation. The referee approves the attorney's fee of $500 to be paid by the claimant.

Decision: REVERSED. The claimant is qualified for benefits.

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 December 3, 2014.

EDWIN LOSCHI
Appeals Referee

Lisa Rell

By:

LISA RELL, 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-21.004, 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, Suite 101 Rhyne Building, 2740 Centerview Drive, Tallahassee, Florida 32399-4151; (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 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.

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-21.004, 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, Suite 101 Rhyne Building, 2740 Centerview Drive, Tallahassee, Florida 32399-4151; (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 el 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.

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-21.004, 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, Suite 101 Rhyne Building, 2740 Centerview Drive, Tallahassee, Florida 32399-4151; (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 nimewo 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.

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