STATE OF FLORIDA
REEMPLOYMENT ASSISTANCE APPEALS COMMISSION

In the matter of:

Claimant/Appellant

R.A.A.C. Order No. 16-00020

vs.

Referee Decision No. 0027331296-02U

Employer/Appellee

ORDER OF REEMPLOYMENT ASSISTANCE APPEALS COMMISSION

This case comes before the Commission for disposition of the claimant's appeal pursuant to Section 443.151(4)(c), Florida Statutes, of a referee's decision holding the claimant disqualified from receipt of benefits.

Pursuant to the appeal filed in this case, the Reemployment Assistance Appeals Commission has conducted a complete review of the evidentiary hearing record and decision of the appeals referee. *See* §443.151(4)(c), Fla. Stat. The Commission's review is generally limited to the evidence and issues before the referee and contained in the official record.

The issue before the Commission is whether the claimant was discharged by the employer for misconduct connected with work as provided in Section 443.101(1), Florida Statutes.

The referee's findings of fact state as follows:

> The claimant worked part time from November 9, 2010 through June 13, 2015, as a team member. The claimant was discharged. The claimant was discharged for a failed drug/alcohol test on 5/6/15. The [Executive Team Leader of Human Resources], observed the claimant slurring his speech and smelling like stale alcohol. [The witness] believed this to be reasonable cause and asked the claimant to consent to alcohol testing. The claimant signed the consent form, was suspended and took 2 tests at [the] employer's facility on 5/6/15. The claimant's test results were: not clear to proceed and .04 level. The claimant was discharged on 6/13/15.

Based on these findings, the referee held the claimant was discharged for misconduct connected with work. Upon review of the record and the arguments on appeal, the Commission concludes that documents were not properly admitted into evidence, one finding was based on evidence whose competence was not established, and key findings were not made; consequently, the case must be remanded.

As the hearing officer in a reemployment assistance proceeding, the appeals referee must seek out all relevant and material evidence that is available from the witnesses who appear at the hearing. *See* Fla. Admin. Code R. 73B-20.024(3)(b). In rendering a decision, the referee must set out a statement of facts that is clear and unambiguous and sufficiently definite to enable a reviewing authority to test the validity under the law of the decision resting on those facts. *See Hardy v. City of Tarpon Springs*, 81 So. 2d 503 (Fla. 1955). Because these fundamental requirements have not been met, the case must be remanded for further proceedings.

The findings of fact do not reflect material testimony regarding a previous warning issued to the claimant and key details regarding the final incident, such as the claimant's admissions that he had been drinking alcohol the night before, was under the effects of alcohol at work the day of the final incident, and the specific terms of the employer's policy. While the referee may have believed it unnecessary to make these findings because the test results directly proved the claimant violated the policy, these results were not competent evidence on this record, as discussed below. In addition, procedural error occurred regarding the admission of documentary evidence presented by both the claimant and the employer. While relevant documentary evidence was discussed at the hearing by the parties, and subsequently marked into evidence by the referee *after* the hearing, the referee did not adequately authenticate all the documents or ask the parties for their position as to admissibility of all the documents.

We first address the documents. The referee marked nine numbered exhibits (including subparts) after the hearing. While relevant, the referee did not fully authenticate every document; more significantly, the referee did not ask each party whether they objected or consented to the documents being admitted. On remand, the referee must notice and conduct a supplemental hearing, provide each of these exhibits to the parties with the notice of hearing, confirm on the record what the documents are and how they were obtained or created, inquire as to whether either party has any objection, and rule on any objections. Additionally, the referee did not

mark the claimant's request for FMLA leave as an exhibit. As discussed below, we reject the claimant's FMLA defense but, for completeness of the record, the referee should include any requests for leave and responses thereto as a potential exhibit and address them at the hearing along with the other selected exhibits. These include four pages from the claimant's submitted exhibits.

With respect to the findings, the record reflects that the employer alleged that it discharged the claimant for violating the employer's known policy by reporting to work under the influence of alcohol on May 6, 2015. The referee did not include the contents of the policy in the findings of fact, but writes in the conclusions of law that the employer's policy directs employees may "never have, use, or be under the influence of any illegal drug or alcohol, or have drugs on [the employer's] premises." The record reflects this written policy and the employer's Drug Free Workplace policy were properly provided to the parties for use at the hearing and discussed on the record. The claimant testified he was aware of the policy and admitted he was still under the effects of alcohol at the workplace on March 12, 2015, and May 6, 2015. The claimant's admissions, however, are not reflected in the referee's findings. Further, the policy documents and receipt thereof discussed by the parties at the hearing were not officially admitted as exhibits during the hearing.

Similarly, the referee did not make findings about the claimant's prior warning. The record reflects the claimant admitted at the hearing that he had received a final warning on March 18, 2015, for arriving at the workplace on March 12, 2015, under the influence of alcohol. The undisputed testimony reflects that on March 12, 2015, the claimant told the human resource manager that he attended a BBQ earlier in the day where he consumed beer. He subsequently took a nap and woke up at 5:30 p.m. He was confused upon awaking, thought he had slept through to the next day, mistakenly thought the time was 5:30 a.m. instead of 5:30 p.m., and rushed to the workplace as his regular start time was 6:00 a.m. The claimant admitted he had been drinking prior to arriving at the workplace, but denied attempting to clock in, falling down, and being belligerent as the human resource manager testified. The claimant further admitted that police and an ambulance responded to the workplace on March 12, and the claimant was ultimately taken to the hospital. The claimant asserted that the employer was unreasonable for calling an ambulance and the proper course of conduct would have been to call his wife to come pick him up. The employer's witness explained that the claimant was issued the final warning and not discharged for the March 2015 incident because the claimant was not actually scheduled to be at work that day, had not clocked in for work because the employer's system will not allow an employee to

clock in when not scheduled to work, and the claimant was not in the public areas of the store, but in the back employee only area. The witness testified the claimant had been an employee for a long time and the employer thought issuing a final warning was the most appropriate way to handle the situation under the specific circumstances.

Regarding the events that occurred on May 6, 2015, the record reflects the human resource manager observed the claimant at work appearing to be under the influence of alcohol. The witness testified the claimant smelled of alcohol and had slurred speech. When she asked him if he had been drinking, the claimant stated that he had been out drinking the night before with friends. The human resource manager asked the claimant to take a drug and alcohol test per the employer's policy because she had a reasonable suspicion that the claimant was under the influence. The claimant complied with the request and was sent by taxi to the clinic the employer uses for work-related injuries and drug and alcohol testing.[1]

The claimant testified the result of this test was .0467, he was surprised that much alcohol was still in his system from the previous night, and he considered that amount of alcohol to be significant for him. However, the claimant's testimony regarding the results of the test is not competent evidence, because, as far as can be discerned from this record, it is based on non-competent hearsay. There is no evidence that the claimant observed the test being performed and saw the results independently. If the only source of his knowledge of the test results was what he was told, the results are based solely on hearsay. Moreover, there is no record evidence that the person who told him the results had personal knowledge of the results. Even if that were not an issue, such secondhand reporting of results is generally not competent hearsay. Because of the nature of alcohol and drug test results – highly technical and potentially highly probative information, but information that is almost never provided by direct testimony of a person with knowledge of them – we have held that the proper method of proof, absent direct testimony of a knowledgeable witness, is to provide the test results and chain of custody from testing performed by a licensed laboratory. *See* R.A.A.C. Order No. 15-05170 at pg. 5 (March 30, 2016).[2]

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[1] The finding that the claimant took the test at the "employer's facility" on May 6, is ambiguous as written because it can be interpreted to indicate the test was administered either at the employer's place of business or at the medical clinic the employer utilizes to perform such tests. On remand, the referee should clarify this finding.

[2] Available at http://www.floridajobs.org/finalorders/raac_finalorders/15-05170.pdf.

As reflected in multiple legislative enactments including Section 443.101(11), Florida Statutes, when appropriate procedural safeguards exist, documentary evidence regarding drug test results are admissible as competent evidence because such results reach a level of reliability as to be probative even though hearsay. However, in this case, the record merely reflects that the claimant testified as to the test results he was told, and the employer provided a summary letter (eventually marked as Exhibit 7B) that did not include the test results from the testing laboratory. This evidence lacks the overall reliability that is required for hearsay drug results to be accepted as evidence. Moreover, while the hearsay exception for adoptive admissions can permit the referee to rely on a statement of another "which a party has manifested an adoption or belief in its truth," Section 90.803(18)(b), Florida Statutes, the claimant did not unequivocally express his agreement with the accuracy of the test results; to the contrary, he indicated that he was surprised they were that high. Accordingly, we conclude that, at this point, the alcohol tests results have not been proven competently.[3] Moreover, the lack of such results undermines the conclusion that the claimant violated the employer's drug-free workplace policy as written, because the documents submitted indicate that "under the influence of alcohol" means that an individual has a blood alcohol level of 0.04 or higher. On remand, at the supplemental hearing the referee shall provide the parties an opportunity to submit additional documentary evidence regarding the results of the alcohol tests that were performed on May 6, 2015. Upon consideration of any offered and admitted evidence, the referee shall revisit the findings and conclusions regarding a violation of the employer's policy.

Notwithstanding our conclusion that the alcohol test results are not yet supported by competent evidence, there is abundant evidence in this record to conclude that the claimant engaged in a conscious violation of the employer's interests and a deliberate violation or disregard of the reasonable standards of behavior which the employer expects of his or her employee within the meaning of Section 443.036(29), Florida Statutes. Both the observations of the employer's witness (*see Hubbard v. Unemployment Appeals Commission*, 53 So. 3d 1261 (Fla. 4th DCA 2011)) and the claimant's own admissions are sufficient to so prove. However, because the need to repair the documentary record requires us to remand the case, we leave to the referee the responsibility to review the completed record and determine whether the admissible evidence establishes a violation of subparagraph (a) of the definition of misconduct.

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[3] The employer submitted written records relating to the drug screen, but these came back negative. The record does not reflect why no written records were provided regarding the alcohol screen, but the employer may have also believed the claimant's admission as to what he was told was sufficient.

At the appeals hearing and on appeal to the Commission, the claimant admits he had alcohol in his system at work, but asserts he cannot be disqualified from the receipt of benefits because his discharge violated the Americans with Disabilities Act of 1990 ("ADA") and the Family and Medical Leave Act of 1992 ("FMLA"). Because the application of these statutes to this case is a matter of law, and because the record is adequately developed with respect to these issues, we address them herein rather than remanding.

The referee made no findings regarding the claimant's FMLA status, but in her conclusions writes that the claimant requested a leave of absence on May 7, 2015, the day after his suspension. That is not an accurate reflection of the testimony. The record reflects the claimant testified that, on May 7, the day after the incident, he called the doctor seeking an appointment and called the employer's witness to request she send him FMLA paperwork. The claimant testified the soonest available appointment he could get with the doctor was May 20, 2015, and that, on that date, the doctor filled out the FMLA paperwork diagnosing him with alcoholism and certifying that the claimant needed FMLA leave. The claimant provided a copy of this document for use at the hearing and it was discussed on the record, but again, the document was not marked as an exhibit or officially included in the record as evidence. For purposes of our analysis, we assume that the claimant was entitled to FMLA intermittent leave by virtue of this request.

There is no evidence in the record that at any time prior to the incident of May 6, 2015, the claimant advised the employer he needed leave or other assistance for a problem with alcoholism. Even after the warning given as a result of the March 12, 2015, incident, the claimant did not notify the employer of an issue, seek accommodations, or seek leave. Only the day *after* he had reported to work on May 6, 2015, under the effects of alcohol and was sent for reasonable suspicion testing, did the claimant seek medical intervention and request leave. Under these circumstances, neither the ADA nor the FMLA protects him from the consequences of his actions, even if we assume that the claimant met the thresholds for protection under these acts.[4]

It is well established that the ADA protects an individual's status as an alcoholic, but not his inappropriate workplace behavior caused by that condition. The ADA expressly allows an employer, among other things, to "prohibit the illegal use of drugs and the use of alcohol at the workplace by all employees," "require that employees shall not be under the influence of alcohol or be engaging in the illegal

[4] The ADA protects an individual whose condition meets the definition of a disability (see 42 U.S.C. §12202(1)), while the claimant's entitlement to FMLA leave depends upon whether he has a "serious health condition" as defined in 29 U.S.C. §2611(11).

use of drugs at the workplace," and "hold an employee who engages in the illegal use of drugs or who is an alcoholic to the same qualification standards for employment or job performance and behavior to which the entity holds its other employees, even if any unsatisfactory performance or behavior is related to the employee's drug use or alcoholism." 42 U.S.C. §12114(c)(1)-(2), (4). *See also* 29 C.F.R. §1630.16(b) (1)-(2), (4). The statute also does not prohibit testing for use of illegal drugs or alcohol use or impairment in the workplace. 42 U.S.C. §12114(d); *Enforcement Guidance: Disability-Related Inquiries and Medical Examinations of Employees Under the Americans with Disabilities Act (ADA)* at n. 26 (EEOC July 27, 2000) (holding that employers may conduct reasonable suspicion testing for alcohol use).[5]

An employer may be required to allow leave for treatment for alcoholism, but such a request does not excuse past misconduct resulting from the alcoholism. *See Enforcement Guidance: Reasonable Accommodation and Undue Hardship Under the Americans with Disabilities Act,* at Questions 35-36 and note 103 (EEOC October 17, 2002).[6] In particular, the EEOC's guidance holds that "[s]ince reasonable accommodation is always prospective, an employer is not required to excuse past misconduct even if it is the result of the individual's disability."

Application of these principles has consistently led to the rejection of ADA claims for individuals who reported to work under the influence. In *Ames v. Home Depot U.S.A., Inc.*, 629 F.3d 665 (7th Cir. 2011), the court rejected the claimant's contention that her termination for reporting to work impaired was discriminatory, relying on 42 U.S.C. §12114(c)(4). Similar cases include *Nauseda v. Tootsie Roll Indus.*, 14 Am. Disabilities Cas. (BNA) 414 (N.D. Ill. April 11, 2003), *Woolcott v. E.I. Dupont De Nemours & Co.*, 1997 U.S. Dist. LEXIS 6700 (W.D. N.Y. April 29, 1997) and *Canon v. Clark,* 3 Am. Disabilities Cas. (BNA) 1308 (S.D. Fla. September 21, 1994). The ADA provides no "get out of jail free card" for an employee who has violated an employer's policy prohibiting alcohol impairment at work.

Likewise, even assuming the claimant would have been entitled to leave for his FMLA request made in late May, neither that request, nor the employer's granting it, immunized him from a pre-request violation of the employer's policy. The FMLA provides that "[n]othing in [the restoration requirement] shall be construed to entitle any restored employee to . . . any right, benefit, or position of employment other than any right, benefit, or position to which the employee would have been entitled had the employee not taken the leave." 29 U.S.C. §2614(a)(3)(B). *See also* 29 C.F.R. §825.216(a) ("An employee has no greater right to reinstatement or to other benefits and conditions of employment than if the employee had been

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[5] Available at https://www.eeoc.gov/policy/docs/guidance-inquiries.html#N_31.
[6] Available at https://www.eeoc.gov/policy/docs/accommodation.html.

continuously employed during the FMLA leave period"). *See Schaaf v. SmithKline Beecham Corp.*, 602 F.3d 1236, 1241 (11th Cir. 2010). All that is required is that the employer show that any failure to reemploy (or in this case, a termination that precluded reinstatement after any leave) was for reasons unrelated to the request for leave.

For these reasons, we conclude that the claimant's ADA and FMLA arguments are without merit. If, on remand, the employer proves that the claimant was terminated because of his reporting to work under the influence of alcohol in violation of its policy, then the claimant is not protected from any such discharge by virtue of the ADA and FMLA.

In summary, on remand, the referee shall notice a supplemental hearing, attach copies of all exhibits marked after the hearing and the FMLA leave request and response, conduct the supplemental hearing to authenticate the documents and address any objections to their admission, and admit all documents appropriate into the record. The referee shall address any additional documents either party may submit regarding the results of the alcohol tests administered on May 6, 2015. Finally, the referee shall issue a new decision with findings and conclusions to address the issues of whether the employer has proven that the claimant was discharged for misconduct with the meaning of subparagraphs (a) and (e) of Section 443.036(29), Florida Statutes. The referee need not further address the ADA or FMLA issues.

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 7/25/2016, 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: Kady Ross
Deputy Clerk

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

*48265647 *

Docket No.0027 3312 96-02 Jurisdiction: §443.151(4)(a)&(b) Florida Statutes

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

APPEARANCES Claimant

Employer

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.

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.

Findings of Fact:

The claimant worked part time from November 9, 2010 through June 13, 2015, as a team member. The claimant was discharged. The claimant was discharged for a failed drug/alcohol test on 5/6/15. The Executive Team Leader of Human Resources, observed the claimant slurring his speech and smelling like stale alcohol. believed this to be reasonable cause and asked the claimant to consent to alcohol testing. The claimant signed the consent form, suspended and took 2 tests at employer's facility on 5/6/15. The claimant's test results were: not clear to proceed and .04 level. The claimant was discharged on 6/13/15.

Conclusion of Law:

Florida Statute §443.036 (29), defines "misconduct" 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, 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 reflects the claimant was discharged. With respect to part (e) of §443.036 (30) the employer must establish that the claimant violated the employer's rule/policy. In this case the employer's policy in pertinent part provides that "employee should be aware that you should never have, use or be under the influence of any illegal drug or alcohol, or have drugs on premises. Any violation of the expectation by team members could lead to disciplinary action including termination. is "at-will" employer, employment status may be changed from time to time. The employee must pass a drug and/ or alcohol test, as outlined in the drug free workplace policy and drug test consent form. Also, the employer has drug free workplace policy; it has prohibited team member activity of reporting to work or working while impaired by alcohol or drugs." The claimant was aware, signed and received these: orientation form and expectations of team members' documentation on 11/9/10. The claimant was observed by 2 members of management on morning of 5/6/15 to be under the influence of something. The Executive Team Leader of Human Resources, observed the claimant slurring his speech and smelling like stale alcohol. believed this to be reasonable cause and asked the claimant to consent to alcohol testing. The claimant signed the consent form, took 2 tests at employer's facility and sent home for rest of the day on 5/6/15. The claimant's test results were not clear to proceed and .04 level. Furthermore, the claimant admitted to when requested to consent to testing that he had consumed alcoholic beverages on night of 5/5/15. The claimant violated a known policy of the employer, violation of law, section (e).

At the hearing, the referee was presented with conflicting testimony regarding if the claimant failed alcohol screen test on 5/6/15. The claimant contends he had consumed alcoholic beverage on night of 5/5/15. The claimant contends he received test results while at the testing facility on 5/6/15; the results were .04 alcohol level. The claimant was suspended while the employer awaited the results of the test. The claimant contends he requested a leave of absence via family medical leave act from the employer on 5/7/15. The claimant advised Executive Team Leader of Human Resources, that the FMLA was approved on 6/2/15. The Executive Team Leader of Human Resources, contends she observed the claimant slurring his speech and smelling like stale alcohol on 5/6/15. In addition, the claimant admitted to that he consumed alcoholic beverages on night of 5/5/15. asked the claimant to consent to testing, the claimant agreed and was sent to testing facility. The claimant was suspended pending test results to the employer on 5/6/15. The referee alone is charged with resolving these conflicts. The appeals referee considered the factors set forth by the Unemployment Appeals Commission in Order No. 03-10946. Based on consideration of the following factors, (1) the witness' opportunity and capacity to observe the event or act in question; (2) any prior inconsistent statement by the witness; (3) a witness' bias or lack of bias; (4) the contradiction of the witness' version of events by other evidence or its consistency with other evidence; (5) the inherent improbability of the witness' version of events; and (6) the witness' demeanor. The referee accepts the testimony of the employerto be more credible. Therefore, material conflicts in the evidence are resolved in favor of the employer.

In addition, the claimant showed misconduct under section (a). The claimant demonstrated 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. The employer expected the claimant to come to work and abide by all policies, consistently. The claimantwas under the influence of alcohol upon reporting to work at 6am on 5/6/15. The claimant was aware the employer had a drug free workplace policy. It is concluded that the claimant's actions evinced misconduct within the meaning of the law. As such, the claimant is disqualified from receipt of benefits.

Decision:

The determination dated November 9, 2015, disqualifying the claimant from 5/31/15 , is affirmed.

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 23, 2015.

C. RICHARDSON
Appeals Referee

By: 

KIMBERLY MARTIN, 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.
