STATE OF FLORIDA
REEMPLOYMENT ASSISTANCE APPEALS COMMISSION

In the matter of:

Claimant/Appellee

R.A.A.C. Docket No. 18-01037

vs.

Referee Decision No. 0032914503-04U

Employer/Appellant

ORDER OF REEMPLOYMENT ASSISTANCE APPEALS COMMISSION

This case comes before the Commission for consideration of an appeal of the decision of a reemployment assistance appeals referee. The referee's decision advised that a request for review should specify any and all contentions of error with respect to the referee's decision, and that contentions of error not specifically raised in the request for review may be considered waived. The Commission has jurisdiction pursuant to Section 443.151(4)(c), Florida Statutes.

The Commission's review is generally limited to the issues before the referee and the evidence and other pertinent information contained in the official record. Parties are advised prior to the appeals hearing before the referee that the hearing is their only opportunity to present evidence in support of their position in the case. The referee has the responsibility to develop the hearing record, weigh the evidence, judge the credibility of the witnesses, resolve conflicts in the evidence, and render a decision supported by competent and substantial evidence. The Commission reviews the evidentiary and administrative record and the referee's decision to determine whether the referee followed the proper procedures, adequately developed the evidentiary record, made appropriate and properly supported findings, and properly applied the reemployment assistance law established by the Florida Legislature. The Commission cannot reweigh the evidence and the inferences to be drawn from it. Further, absent extraordinary circumstances, the Commission cannot give credit to testimony contrary to that accepted as true by the referee.

Having considered all arguments raised on appeal and having reviewed the hearing record, the Commission concludes that the referee sufficiently followed the proper procedures and the case does not require reopening or remanding for further proceedings. The referee's finding that the employer's drug-free workplace policy prohibits the use, possession, distribution, sale, or being under the influence of drugs or alcohol while on company property or worksites, or while operating company equipment or vehicles is corrected to reflect that the policy prohibits "*the use,*

possession, distribution, sale, or being under the influence of illegal drugs, illegally used legal drugs, or alcohol while on duty, while on company property or worksites, or while operating company vehicles or equipment." The finding that the claimant had recently smoked marijuana is corrected to reflect the claimant had smoked marijuana, as the record is silent regarding when she did so or whether it was recently. These corrections, however, do not affect the legal correctness of the referee's ultimate decision. The referee's material findings, as amended, are supported by competent, substantial evidence in the record. While the referee's legal analysis is erroneous, we affirm the decision on other grounds.

The Referee's Analysis

Workers who are discharged for misconduct connected with work as defined in Section 443.036(29), Florida Statutes, are disqualified from receiving reemployment assistance benefits. §443.101(1)(a)2., Fla. Stat. Here, the referee held the claimant was discharged for reasons other than statutory misconduct. The referee reasoned that, although the claimant admitted using marijuana, she was fired for refusing to take a drug test. Citing case law, the referee then concluded that drug testing required reasonable suspicion, which the referee found did not exist in this case.

We reject much of the referee's legal analysis. *First*, the claimant's admission that she used marijuana was not irrelevant. Indeed, the requirement that the claimant submit to a drug test after that admission was largely superfluous, because the test could provide little more useful information than the claimant's admission under the circumstances of this case.[1] *Second*, Florida law authorizes or permits employers to require employees to submit to testing in a number of circumstances, including random testing, and the cases the referee cited do not hold otherwise for the purposes of this case.

City of Palm Bay v. Bauman, 475 So. 2d 1322 (Fla. 5th DCA 1985), is a dated decision that involved drug testing of public employees. Drug and alcohol testing of public employees raises constitutional concerns under the Fourth Amendment not presented by the testing of private-sector employees *unless* such private-sector testing is mandated by law. *City of Palm Bay* involved a developing area of law that was later addressed authoritatively by the U. S. Supreme Court in *National Treasury Employees Union v. Von Raab*, 489 U.S. 656 (1989), and *Skinner v. Railway Labor Executives' Assn.*, 489 U.S. 602 (1989). *Von Raab* held that suspicionless testing of public employees can be reasonable in certain circumstances, where the nature of their job duties provides a strong public interest in ensuring

[1] We have noted – as has the First District Court of Appeal in a recent case – that urine testing for marijuana can detect marijuana several days or even weeks after usage, and long after any impairment has worn off; thus, urine testing does not establish impairment. *See* R.A.A.C. Order No. 16-02324 (December 30, 2016); *Brinson v. Hospital Housekeeping Services, LLC*, 43 Fla. L. Weekly D1428 (Fla. 1st DCA June 22, 2018) (Makar, J., dissenting).

that they are drug-free. To the extent that *City of Palm Bay* is read to suggest that only reasonable suspicion testing is permissible – and a close reading makes clear it does not, as the Court expressed no concerns with testing for hiring or routine fitness for duty examinations – it would have been superseded by Supreme Court and other federal precedent, such as *AFSCME v. Scott*, 717 F.3d 851 (11th Cir. 2013).

Fowler v. Unemployment Appeals Commission, 537 So. 2d 162 (Fla. 5th DCA 1989), another pre-*Von Raab* case, also involved testing of public employees. The court held that the employer *could* require a drug test on the basis of reasonable suspicion even though it did not have a policy authorizing such testing.[2]

AAA Gold Coast Moving & Storage v. Weiss, 654 So. 2d 281 (Fla. 4th DCA 1995), a case that involved private-sector testing, likewise does not support the conclusion that only reasonable suspicion testing is permissible. *AAA Gold Coast Moving & Storage* is distinguishable from the case before us because it involved the issue of a unilateral and substantial change to a term of employment, which is not present here. In that case, the employer imposed a new testing policy after the claimant was hired, and then required the claimant to submit to a random drug test. The claimant's refusal to do so did not constitute misconduct because she had not accepted the change in policy as part of the ongoing conditions of her employment. Moreover, the evidence was not sufficient to establish reasonable suspicion.

The Employer's Policy

Notwithstanding these misperceptions regarding the law, the referee reached the correct result if not the correct rationale, for two reasons. *First*, the employer's policy does not prohibit drug use away from work *if* the employee is not under the influence in the workplace. The employer's drug-free workplace policy provides in pertinent part as follows:

> The company does not tolerate the presence of illegal drugs or the illegal use of legal drugs in our workplace. The use, possession, distribution, or sale of controlled substances such as drugs or alcohol, or being under the influence of such controlled substances is strictly prohibited while on duty, while on the company's premises or worksites, or while operating the company's equipment or vehicles. The use of illegal drugs as well as the

[2] In *Fowler*, the court stated, summarizing *City of Palm Bay*, "For random testing of public employees at nonscheduled times, we said there had to be a 'reasonable suspicion' the employee was using illegal drugs." 537 So. 2d at 164. This language, some of which was quoted in the referee's decision, uses terms of art in drug-testing law imprecisely. As discussed below, "random" tests are a specific type of test under generally used principles of drug testing, and are distinct from routine fitness for duty, hiring, promotional, or reasonable-suspicion testing.

> illegal use of legal drugs is a threat to us all because it promotes problems with safety, customer service, productivity, and our ability to survive and prosper as a business. If you need to take a prescription drug that affects your ability to perform your job duties, you are required to discuss possible accommodations with Joe Colledge or Gary Panico. Violation of this policy will result in disciplinary action, up to and including termination.

Nothing in this policy purports to make off-duty use of marijuana a violation of policy absent a showing that the claimant was impaired at work. For that reason, the claimant's admission of marijuana usage was not disqualifying by itself.

Second, the employer's policy, read in light of the generally-accepted principles of drug testing law, did not require the claimant to submit to a test. The relevant provision of the policy states as follows:

> Upon employment, each potential employee must undergo a drug test. The company may also require employees to take random drug tests during their employment with the company. A positive test result on any such drug test is grounds for immediate termination . . . .

The policy authorizes two types of testing – job applicant testing, and random testing. However, the policy does not define "random drug tests." While the employer apparently construes "random drug tests" to mean that the employer may require an employee to submit to a drug test at any time and for any reason, including when there are cash shortages, the employer's policy did not place the claimant on notice of this meaning.

Under drug testing law, "random testing" does not mean "whenever the employer thinks it is appropriate or necessary." To the contrary, "random testing" has a generally understood meaning in drug-testing law. For example, Florida's Drug-Free Workplace Act, which governs state employees, defines "random testing" as "a drug test conducted on employees who are selected through the use of a computer-generated random sample of an employer's employees." §112.0455(5)(j), Fla. Stat. Similarly, federal fitness for duty regulations issued by the Nuclear Regulatory Commission define "random drug testing" as "the unscheduled, unannounced drug testing of randomly selected employees by a process designed to ensure that selections are made in a nondiscriminatory manner." 10 C.F.R. §712.3. The evidence here did not establish that the claimant was required to submit to a "random" test.

Although the employer's policy did not specifically provide for reasonable suspicion testing, *Fowler* makes clear that reasonable suspicion testing may be required regardless. However, the evidence in this case was insufficient to establish "reasonable suspicion." The employer's witness testified the claimant was asked to submit to a drug test because there was a cash shortage. A cash shortage by itself does not fall within any common definition of "reasonable suspicion." *See, e.g.*, §440.102(1)(n), Fla. Stat. (listing examples of behavior giving rise to reasonable suspicion). Cash handling errors are common in the cases we review and are usually attributed to simple human error. They would not, without additional facts, establish reasonable suspicion. Moreover, the employer's witness acknowledged the claimant did not exhibit any behavior that would make him suspect she was using drugs. Reasonable suspicion was not established.

On appeal to the Commission, the employer asserts that it should be obvious that refusal to submit to a drug test would be grounds for discharge. Indeed, it may be. The issue before us, however, is not whether the employer had good business reasons to discharge the claimant, but whether it established disqualifying misconduct within the meaning of the law. Not all behavior sufficient to justify discharge constitutes disqualifying misconduct. *Bagenstos v. Unemployment Appeals Commission*, 927 So. 2d 153, 157 (Fla. 4th DCA 2006). Thus, we examine the claimant's conduct in refusing to submit to a drug test to determine whether it was misconduct under Florida law.

Misconduct Under Florida Law

Section 443.036(29), Florida Statutes, states that 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 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. Such conduct may include, but is not limited to, willful damage to an employer's property that results in damage of more than $50; or 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 interests 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.

Of these subparagraphs, (a) and (e) are potentially applicable in this case.

Since the plain language of the employer's drug-free workplace policy did not support testing in this instance, and the employer did not establish reasonable suspicion, misconduct under subparagraph (a) has not been established. As the court held in *AAA Gold Coast Moving & Storage*, where reasonable suspicion does not exist, and the employer's policy cannot be applied to mandate a test, a "refusal to submit cannot be considered a deliberate violation or disregard of the standards of behavior which the employer had the right to expect from his employee." 654 So. 2d at 282. Moreover, the mere fact that the claimant used marijuana off-duty does not constitute misconduct where no showing was made that her use impacted the employer or her job performance. *See* R.A.A.C. Order No. 15-03483 at pg. 2 (December 28, 2015).[3]

[3] Available at http://www.floridajobs.org/finalorders/raac_finalorders/15-03483.pdf.

Likewise, where the plain language of the employer's policy does not prohibit all off-duty use, and the employer's policy did not provide notice that the claimant could be compelled to submit to a test under these circumstances, the employer did not establish disqualifying misconduct as defined by subparagraph (e) of the statute. *See* R.A.A.C. Order No. 13-06014 at pg. 4 (October 7, 2013).[4]

Finally, disqualification under Section 443.101(1)(d), Florida Statutes, requires a showing that the drug use is connected with work in some fashion. This could be done under the employer's current policy by demonstrating that the employee is in possession of, is using, or is impaired by illegal drugs or alcohol *at work*. As noted above, the facts do not show any of these behaviors. Alternatively, where an employer has adopted a drug-free workplace policy with language consistent with Florida workers' compensation law, misconduct connected with work could be shown by a test revealing that an employee reported to work with detectible levels of illegal drugs or alcohol or their metabolites, and this is true even if the detected substances were used off-duty and even if no sign of present impairment existed. In this case, the employer's policy does not include such language.

The employer cogently explains in its request for review the reason why it instituted its policy and why it tests when there are cash shortages. There is no doubt that employee drug use can adversely affect an employer in a number of ways. For that reason, Florida law supports drug-free workplaces, and includes a drug-free workplace program in its workers' compensation law (Sections 440.101 & 440.102, Florida Statutes) that is incorporated in the reemployment assistance law (Section 443.101(11), Florida Statutes). However, drug testing is highly regulated. Only tests that are performed in appropriate circumstances under a lawful testing policy and under technically sound testing protocols may be used to disqualify an individual from governmental benefits in Florida.

[4] Available at http://www.floridajobs.org/finalorders/raac_finalorders/13-06014.pdf.

The referee's decision is affirmed.

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

9/11/2018 ,

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

*69915352 *

Docket No.0032 9145 03-04 Jurisdiction: §443.151(4)(a)&(b) Florida Statutes

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

APPEARANCES:

Employer

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.

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.

CHARGES TO EMPLOYER'S EMPLOYMENT RECORD: Whether benefit payments made to the claimant will be charged to the employment record of the employer, pursuant to Sections 443.101(9); 443.131(3)(a), Florida Statutes; Rules 73B-10.026; 11.018, Florida Administrative Code. (If charges are not at issue on the current claim, the hearing may determine charges on a subsequent claim.)

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Findings of Fact: The claimant was hired by , on January 18, 2017, as a front office receptionist. The employer has a "Drug Free Workplace" policy. The policy prohibits the use, possession, distribution, sale, or being under the influence of drugs or alcohol while on company property or worksites, or while operating company equipment or vehicles. The policy states that violations will result in disciplinary action, up to and including termination. The policy also requires employees to undergo a drug test "upon employment," and may also be subject to take random drug tests during their employment. The policy states a positive drug test result will lead to immediate termination. The employer also has an "Involuntary Termination" policy which provides immediate termination for employees "reporting for work under the influence of alcohol or controlled substances," and the "possession, use, sale or distribution of controlled substances on the property." The claimant was aware of the employer's policy. In January 2018, the claimant processed a transaction for another employee. The claimant took the employee's money for the transaction, and gave him exact change for it. Sometime after the transaction occurred, a cash shortage was noticed from the transaction. The employer performed an internal audit of the transaction to determine where the cash went missing. The secretary treasurer directed the claimant to take a drug test due to the cash shortage. The secretary treasurer did not notice any signs the claimant was under the influence of drugs or alcohol. The claimant refused to take the drug test and said she would not pass it. The claimant had recently smoked marijuana. The claimant was discharged on February 5, 2018, because she refused to take a drug test.

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 record shows the claimant was discharged because she refused to take a drug test. 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). While the claimant admitted to using marijuana around the time she was directed to take a drug test, and likely would have returned a positive result on the test if she taken it, the claimant's admission to using marijuana would only be relevant had the claimant taken the drug test as directed and received a positive result. In this case, the claimant was discharged for refusing to take the drug test, not for testing positive. As such, the determining factor in this case is whether the claimant's refusal to take the drug test, and not whether she would test positive, constitutes misconduct. When an employer discharges an employee for refusing to submit to a urinalysis test, the operative issue is whether the employer utilized a reasonable suspicion standard as the basis for subjecting its employees to random drug testing. See, e.g., Fowler v. Unemployment Appeals Commission, 537 So. 2nd 162 (Fla. 5th DCA 1989); AAA Gold Coast Moving and Storage v. Weiss, 654 So. 2nd 281 (Fla. 4th DCA 1995). In order to satisfy the reasonable suspicion standard and vindicate the use of urinalysis testing, the official imposing the test must "point to specific objective facts and rational inferences that they are entitled to draw from these facts in light of their experience." City of Palm Bay v. Bauman, 475 So. 2d 1322, 1325 26 9Fla. 5th DCA 1985). In this case, the employer's witness, the secretary treasurer, did not notice any signs the claimant was intoxicated or under the influence of a controlled substance at the time the claimant was directed to take the drug test. The witness stated she was required to take the drug test because of a cash shortage. As such, there is insufficient evidence to show there was a reasonable suspicion that the claimant was using or under the influence of controlled substances while on duty. Therefore, the claimant's refusal to take the drug test does not meet the definition of misconduct as outlined under subsections (a) or (b). In regards to the employer's policy, the policy does not specifically identify the scenario involved in this case where an employee refuses to take a drug test, and it does not explain the consequences for such a refusal. Additionally, while the policy provides for random drug testing, random is defined as "lacking a definite plan, purpose, or pattern." See "random." Def 1. www.merriam webster.com. Merriam Webster Dictionary, March 2018. Web. March 26, 2018. Furthermore, as previously addressed, the employer must use a reasonable suspicion standard for the basis of random drug testing. In this case, the employer did not have a reasonable suspicion, and the drug test was not "random" as it has been defined. As such, the claimant did not violate the rules provided by the employer's "Drug Free Workplace" policy when she refused to take the drug test. The employer's "Immediate Termination" policy does not address an employee's refusal to take a drug test; therefore, the claimant did not violate the rules provided by that policy either. Therefore, the employer has not met its required burden of establishing misconduct. Accordingly, the claimant is qualified for benefits.

The law provides that benefits will not be charged to the employment record of a contributing employer who furnishes required notice to the Department when the claimant was discharged for misconduct connected with the work. The employer will be charged because misconduct was not established.

Decision: The determination dated March 2, 2018 is REVERSED. The claimant is qualified for benefits. The employer will be charged.

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 March 27, 2018.

J. SOETE
Appeals Referee

By: Robyn L Deak

ROBYN L. DEAK, 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 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-21.004, 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 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-21.004, 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 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.
