STATE OF FLORIDA
REEMPLOYMENT ASSISTANCE APPEALS COMMISSION

In the matter of:

Claimant/Appellee

R.A.A.C. Order No. 14-00676

vs.

Referee Decision No. 0010262314-03U

Employer/Appellant

ORDER OF REEMPLOYMENT ASSISTANCE APPEALS COMMISSION

I.
Introduction

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.

Upon consideration, the Commission finds that the appeal of the referee's decision was timely filed. The Commission has jurisdiction to decide the case.

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. By law, the Commission's review is limited to those matters that were presented to the referee and are 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.

II.
The Proceedings Below

Based on the evidence presented at the hearing, the referee made the following findings of fact:

> The claimant began working for the employer, a pool construction company, as a Service Technician, on July 15, 2013. The claimant was informed he was a service manager. The president of the company received a complaint from a customer that the claimant had used a racial slur while at her home. The incident occurred on or about the second week of September 2013. The customer had informed the claimant how she felt a repair could be performed concerning the door to the pool. The claimant stated that he would not fix the door the way she stated as it would be considered "nigger-rigging". The customer did not say anything to the claimant after he made the statement. A week later the customer contacted the president and informed him of the comment. The customer told the president she had African-American grandchildren and was offended by the remark. The claimant did not deny making the slur and stated it just came out. The claimant stated he did not intentionally make the statement to upset the customer. The claimant state[d] he did not understand why the customer did not complain sooner. The claimant stated he had grandchildren that were also African-American. The president informed the claimant that he needed to terminate him from employment due to the comment. The claimant stated he did not know that it was against policy as he never received any type of information regarding the employer's policy for using racial slurs. The president discharged the claimant for inappropriate behavior, on September 16, 2013.

Based upon the above 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's material findings of fact are supported by competent, substantial evidence and are adopted by the Commission. However, the referee's conclusion is not in accord with the law; consequently, the decision is reversed.

III.
Issues on Appeal

The question presented is whether the claimant's one-time use of a racial epithet in a conversation with a customer while working at her home rises to the level of misconduct as that term is defined in the reemployment assistance program law. During the incident, the customer suggested the manner in which the claimant might fix her door. The claimant testified he responded, "I am not going to nigger-rig it." The claimant admitted he understood at the time of the incident that it was a "very offensive" phrase and that he should not have used it, but that it "slipped." The claimant further testified he knew the phrase to be commonly used and that he did not consider his using it as "being racist." While he did not think he would be "real upset" if the term was directed at his biracial grandchildren, he acknowledged "they could possibly be." The claimant also blamed the employer for not providing him a policy so that he would know how to conduct himself.

IV.
Analysis

A. The Broadening of the Statutory Definition of Misconduct

In 2011 and 2013, subparagraph (a) of the statutory definition of misconduct was amended as follows:

> (a) Conduct demonstrating conscious ~~willful or wanton~~ 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 ~~has a right to expect~~ of his or her employee.~~; or~~ 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.

Chapter 2013-39, § 41, at 40-41, Laws of Florida; Chapter 2011-235, §3, at 3-4, Laws of Florida. (Words ~~stricken~~ are deletions; words underlined are additions). The amendments have lessened an employer's burden in establishing misconduct. Whereas the employer previously was required to establish that an employee intentionally or maliciously disregarded its interests, which is an extremely high mental state, under the amended provision it need show only that an employee had an *awareness* that such conduct disregarded the employer's interests. *Compare*

Merriam-Webster Online Dictionary, http://www.merriam-webster.com/dictionary/willful or http://www.merriam-webster.com/dictionary/wanton (last visited August 27, 2014) *with* http://www.merriam-webster.com/dictionary/conscious (last visited August 27, 2014). Thus, the employer need not show specific intent, bad motive, malice, or premeditation to establish the employee's conscious disregard. *Accord* House of Representatives Staff Analysis, Bill # CS/HB 7005, p.9. (Feb. 28, 2011).[1] Therefore, the referee's conclusion that the claimant's behavior is not misconduct because it cannot be regarded as an *intentional* disregard of the employer's interest is not in accord with the law.

As a consequence of the amendments, what was deemed misconduct under the narrower predecessor definition serves only as the floor of the range of disqualifying misconduct under the amended definition. While no case law analyzing the previous willful and wanton standard is directly on point in this case, it is well-established that particularly egregious acts, even if isolated, constituted misconduct. *See*, *e.g.*, *Robinson v. Unemployment Appeals Commission*, 899 So. 2d 426 (Fla. 5th DCA 2005) (threatening to kill a co-worker and using the racial epithet "nigger," which violated the employer's rules of conduct, is misconduct). *See also Sauerland v. Florida Unemployment Appeals Commission*, 923 So. 2d 1240 (Fla. 1st DCA 2006) (dishonesty constitutes misconduct); *Lockheed Martin Corporation v. Unemployment Appeals Commission*, 876 So. 2d 31 (Fla. 5th DCA 2004) (violation of sexual harassment policy is misconduct); *Givens v. Florida Unemployment Appeals Commission*, 888 So. 2d 169 (Fla. 3d DCA 2004) (obdurate refusal to follow orders is misconduct); *Araujo v. Unemployment Appeals Commission*, 745 So. 2d 571 (Fla. 5th DCA 1999) (violation of drug-free workplace policy is misconduct). In this case, the Commission finds the claimant's behavior reached the level of egregiousness to constitute misconduct under the broader conscious disregard standard contained in amended subparagraph (a).

[1] House of Representatives Staff Analysis available at http://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?FileName=h7005c.EAC.DOCX&DocumentType=Analysis&BillNumber=7005&Session=2011 (last accessed August 29, 2014).

B. The Use of Racial Epithets in These Circumstances Is So Obviously Offensive That It Constitutes a Conscious Disregard of the Employer's Interests and a Deliberate Disregard of the Reasonable Standards of Behavior that the Employer Expects, Even in the Absence of a Policy or Warning

While one will not find the term "nigger-rig" in a standard dictionary, it is commonly understood to mean, "To fix something in a very cheap way, using whatever materials are handy." *Urban Dictionary*, http://www.urbandictionary.com/define.php?term=nigger%20rig (last visited August 26, 2014).[2]

The use of a racial epithet greatly exceeds the level of offensiveness generated by the mere use of most profanity. Many sources, academic or legal, have recognized the egregious nature of using racially insulting terms and phrases, particularly with respect to the term "nigger" and its variations. "The term nigger is now probably the most offensive word in English. Its degree of offensiveness has increased markedly in recent years." Wendolyn R. Nichols, *Webster's College Dictionary* 894 (Random House 2000). Use of racial epithets has been compared to "receiving a slap in the face. The injury is instantaneous." *See* Charles R. Lawrence III, *If He Hollers Let Him Go: Regulating Racist Speech on Campus*, 1990 Duke L.J. 431, 451 (1990) (citing J. Denver & J. Powell, *Caliban's Complaint: Racist Speech and the First Amendment*).

The deleterious effects of using the term "nigger" or similar racial epithets is well-recognized by the courts in the context of employment law. In addressing an employer's use of the word "nigger," the Ninth Federal Circuit noted that "the term is one that was widely used in an earlier era" and then noted it is now "the most noxious racial epithet in the contemporary American lexicon." *Montiero v. The Tempe Union High School District*, 158 F.3d 1022 (9th Cir. 1998). Courts have further held that use of the term "nigger" or its variations could reasonably be deemed harassing by other individuals. *See*, *e.g.*, *Lyons v. Huntsville Wholesale Furniture, Inc.*, 545 F. Supp. 2d 1214, 1217 (N.D. Ala. 2008) (playing a song which contained the word "nigga" "is precisely the kind of extremely serious 'isolated incident' which constitutes a racially hostile work environment").

[2] Urban Dictionary is an online, crowd-sourced reference resource of slang terms that is increasingly used by courts to define terms that do not qualify for inclusion in a standard dictionary. *See* Jason C. Miller and Hannah B. Murray, *Wikipedia in Court: When and How Citing Wikipedia and Other Consensus Websites Is Appropriate*, 84 St. John's L. Rev. 633, 635 (2010).

This claimant argued below that the term "nigger rig" is not racist and is commonplace. We find no merit in those arguments. We recognize that the claimant did not use an epithet standing alone, but rather used it in its known context as an adjective to denote poor quality craftsmanship. However, the term is racially insulting on its face and by definition. At least two federal cases have addressed the exact phrase used by the claimant. In *Brewer v. Muscle Shoals Board of Education*, 790 F.2d 1515 (11th Cir. 1986), the court held that a school superintendent's statement that he did not want to see the school system "nigger-rigged" was direct evidence of racial animus. Similarly, in *Walker v. Ford Motor Co.*, 684 F.2d 1355, 1359 (11th Cir. Fla. 1982), the court characterized the term "nigger-rigged" as racially abusive, despite argument that the term was not "intended to carry racial overtones." In *Walker*, the court also rejected the claimant's argument that the term's commonplace usage diminished its impact, instead finding use of the term "nigger-rigged" in the workplace could constitute severe and pervasive harassment. *See id.* The Commission finds this claimant's arguments no more meritorious today than they were to the courts 30 years ago.

The claimant also contends that he did not direct the racial epithet at a particular individual and did not intend to offend anyone. However, these factors, although relevant, are not determinative. For the reasons discussed in our prior orders, we have held that the lack of specific intent to offend is not decisive. R.A.A.C. Order No. 13-08300 (February 6, 2014). Nor is it necessary that the epithet be directed at someone. In *Witkowski v. Unemployment Compensation Board of Review*, 633 A.2d 1259 (Pa. Commonw. Ct. 1993), a Pennsylvania appellate court addressed a case wherein a claimant stated, "Please excuse me, they're working me like a nigger" in front of two African-American co-workers, who subsequently complained to management. The court affirmed the claimant's disqualification from unemployment benefits noting that "[c]laimant's statement in this case was so offensive that it should have been obvious that its use was inimical to [the] Employer's best interest, and in complete disregard of the standards of behavior which Employer has a right to expect of its employees." *Id.* at 1261. The Commission agrees. It should have been obvious to this claimant that use of such a term could be offensive even if it was not directed at someone. The claimant's own testimony reflected that he understood that.

The parties in this case spent a portion of the appeals hearing discussing the racial background of both the customer's and the claimant's grandchildren, seemingly in an attempt to heighten the negative nature of the claimant's bad act (when the employer's president testified the customer's grandchildren were African-American) and to ameliorate the claimant's conduct (when the claimant noted his grandchildren were biracial). The race of the party utilizing a racial epithet and the

race of the individual(s) in front of whom it is used is of limited importance. Multi-racial individuals are so numerous that one cannot assume they are not in the presence of a racial minority merely because an individual's skin tone or features do not obviously reflect their racial and/or ethnic background. *See generally Census Data Presents Rise in Multiracial Population of Youths*. http://www.nytimes.com/2011/03/25/us/25race.html?_r=0 (last accessed June 24, 2014) ("among American children, the multiracial population has increased almost 50 percent, to 4.2 million, since 2000"). Moreover, an employee cannot assume that a term will not be offensive even if they are certain they are not in the presence of the racial group that the term disparages. Many people will feel offended when a racial epithet is used in their presence, regardless of their own race.

Furthermore, the claimant's use of a racial epithet is aggravated by the fact that it occurred when he was at a customer's home acting as the employer's sole representative. An employee is reasonably expected to have a heightened degree of awareness of his behavior while interfacing with a customer and to exercise at least slightly higher than normal care in those communications. In this case, the claimant admitted he was in fact aware that the racially insulting term he used was "very offensive." Despite this awareness, the claimant uttered such a term in front of a customer at her own home. An employer has a right to expect its employees will not violate basic principles of human dignity in interacting with customers.

The potential harm to the employer's interests was likewise obvious. When an employee utilizes racial epithets in front of customers, the behavior can be transposed to the employer and lead a customer to believe that the employer is a company that finds the use of racial epithets acceptable. An offended customer is likely to not only evaluate her continued use of the employer's services but also to share her bad experiences with others.[3]

The Commission has previously held that an employee's writing a racial epithet, "nigga did wrong," on a workplace document constituted misconduct under amended subparagraph (a) where the employer's policy provided sufficient guidance as to what was expected of its employees and the employee's actions caused offense. R.A.A.C. Order No. 13-08300 (February 6, 2014). In this case, even though the claimant admitted he was aware the term "nigger-rig" was very offensive, he blamed the employer for not providing him a policy so that he would know how to conduct

[3] Studies confirm that consumers share poor customer service experiences with great frequency and far reach. *See*, *e.g.*, 2012 Global Customer Service Barometer, p.8 (consumer survey showed half of consumers regularly share their poor customer service experiences and poor experiences are shared with 24 people on average), available at http://about.americanexpress.com/news/docs/2012x/axp_2012gcsb_us.pdf. (last accessed September 23, 2014). This sharing has likely proliferated due to the widespread use of social media.

himself. The Commission, however, concludes the claimant's behavior was so obviously and severely offensive that notice to the claimant that such behavior would not be tolerated — such as through a warning or policy — was not necessary to establish "reasonable standards of behavior which the employer expects of his or her employee."

Employers cannot be expected to anticipate every act employees will possibly engage in and, in light of the prevalence of laws prohibiting discrimination, an employer may very well consider it unnecessary to advise its employees that racially offensive language should not be used in front of customers. As the claimant's behavior has been unacceptable in society for a considerable amount of time, the employer need not have an explicit policy prohibiting the use of racial epithets in front of customers in order for such behavior to constitute disqualifying misconduct. This was a standard of behavior to which the claimant was reasonably expected to adhere, whether or not the employer had a policy.

We conclude that, by showing the claimant used a racial epithet while speaking to a customer, the employer established a prima facie case that the claimant's behavior demonstrated a conscious disregard of the employer's interests and a deliberate violation or disregard of the reasonable standards of behavior which the employer expects, as set forth in subparagraph (a) of the statutory definition of misconduct.

C. The Claimant Did Not Establish Any Factors Mitigating Against Disqualification

Once the employer establishes prima facie misconduct, the burden shifts to the employee to establish the propriety of that conduct. *Alterman Transport Lines, Inc. v. Unemployment Appeals Commission*, 410 So. 2d 568, 569 (Fla. 1st DCA 1982). The claimant has failed to meet that burden, as his assertion that the racial epithet he used just "slipped" does not negate a conclusion that the claimant's behavior demonstrated a conscious disregard of the employer's interests.

First, the Commission does not accept the concept that speech may be altogether devoid of thought. While the claimant did not choose his words wisely, he did nevertheless choose them. He has not asserted that his speech was involuntary, such as may occur with Tourette's syndrome. Nor has he asserted that his use of a racial epithet was the result of a reasonable loss of control such as that brought on by provocation or hot blood. Indeed, the claimant's argument that his actions should be excused since the employer did not have a policy prohibiting use of racial epithets undermines his assertion that the epithet "slipped" by inferring that he would have controlled his language if he had known there was a policy against it.

Even if one could speak without thinking, the Commission is not persuaded that the claimant should be excused for failing to think where he had a duty to do so. As noted above, an employer has the right to expect an employee to have a heightened degree of awareness of his behavior while interfacing with a customer and to exercise at least slightly higher care in choosing his words and actions in front of a customer than he would with co-workers. Had the claimant exercised even the slightest of care in these circumstances, he would not have used a racial epithet he knew to be "very offensive." Failing to maintain appropriate awareness is itself a conscious disregard of the employer's interests and a deliberate disregard of the reasonable standards of behavior an employer expects. A conclusion to the contrary would not only seem an absurd result but also creates an opportunity for an employee to avoid disqualification in any case by simply using the magic words, "I wasn't thinking." The Commission therefore rejects such a defense in this case.

V.
Conclusion

Under the predecessor definition of misconduct, courts recognized that an employee's discharge may be based on valid grounds yet still fall short of justifying the total deprivation of reemployment assistance benefits. *Forte v. Florida Unemployment Appeals Commission*, 899 So. 2d 1159, 1161 (Fla. 3d DCA 2005). Under the amended definition of misconduct that gap has narrowed. In this case, the Commission does not find disqualification from benefits a disproportionate consequence under the circumstances. For the aforementioned reasons, the Commission concludes that the claimant's discharge was for misconduct connected with work and, therefore, he must be disqualified from the receipt of benefits.

The decision of the appeals referee is reversed. The claimant is disqualified from receipt of benefits for the week ending September 21, 2013, the 12 succeeding weeks, and until he becomes reemployed and earns $4,675. As a result of this decision of the Commission, benefits received by the claimant for which the claimant is not entitled may be considered an overpayment subject to recovery, with the specific amount of the overpayment to be calculated by the Department and set forth in a separate overpayment determination.

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 9/25/2014, 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: Kimberley Pena
Deputy Clerk

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

*20598593 *

Docket No.0010 2623 14-03 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); 443.036(30), Florida Statutes; Rule 73B-11.020, Florida Administrative Code.

Findings of Fact: The claimant began working for the employer, a pool construction company, as a Service Technician, on July 15, 2013. The claimant was informed he was the service manager. The president of the company received a complaint from a customer that the claimant had used a racial slur while at her home. The incident occurred on or about the second week of September 2013. The

customer had informed the claimant how she felt a repair could be preformed concerning the door to the pool. The claimant stated that he would not fix the door the way she stated as it would be considered “nigger rigging”. The customer did not say anything to the claimant after he made the statement. A week later the customer contacted the president and informed him of the comment. The customer told the president she had African American grandchildren and was offended by the remark. The claimant did not deny making the slur and stated it just came out. The claimant stated he did not intentionally make the statement to upset the customer. The claimant stated he did not understand why the customer did not make a complaint sooner. The claimant stated he had grandchild that were also African American. The president informed the claimant that he needed to terminate him from employment due to the comment. The claimant stated he did not know that it was against any policy as he never received any type of information regarding the employer’s policy for using racial slurs. The president discharged the claimant for inappropriate behavior, on September 16, 2013.

Conclusions 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 claimant was discharged for inappropriate behavior. 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); TallahasseeHousing Authority v. Unemployment Appeals Commission, 483 So.2d 413 (Fla. 1986). The employer did not submit any copies of the employer’s policy or policies allegedly violated by the claimant were submitted in evidence. Furthermore, acopy of the handbook containing the written policy/rule at issue, was not submitted for the hearing. The handbook would have been the best evidence provided a proper foundation had been laid at the hearing. The best evidence rule, set forth in section 90.952, Florida Statutes, provides in pertinent part that “Except as otherwise provided by statute, an original writing, recording, or photograph is required in order to prove the contents of the writing, recording, or photograph.” Moreover, the rule requires that if the original evidence or a statutorily authorized alternative is available, no evidence should be received which is merely "substitutionary in nature." Sun Bank of St. Lucie County v. Oliver, 403 So. 2d 583, 584 (Fla. 4th DCA 1981); Liddon v. Bd. of Pub. Instruction for Jackson County, 175 So. 806, 808 (Fla. 1937). It is axiomatic that an employer desiring to establish a violation of one of its workplace policies would provide a copy of said policy to the referee and the claimant and request that it be entered into the record. See U.A.C. Order No. 10 01114. Where the parties dispute whether the claimant’s specific conduct violated the employer’s rules, and no properly authenticated copies of the underlying policies at issue are submitted in evidence, the referee is unable to determine whether any violations occurred. The claimant stated he was unaware that his statement would be considered egregious to result in his separation or was against any of the employer’s work policies. Furthermore, the customer was not present at the hearing to testify about the incident and if she was offended by the remark. As such, the employer may have made a valid business decision in discharging the claimant; it has not been shown that the claimant’s actions constitute misconduct connected with work rather than a series of minor and dissimilar human error which cannot be regarded as an intentional disregardof the employer’s interest or of the reasonable standards of behavior which the employer expects of his or her employee. The claimant’s actions do not rise to the statutory definition of misconduct, for the purposes of benefits. Therefore, the employer did not meet the burden of substantiating misconduct. Accordingly, the claimant should be qualified for the receipt of benefits.

The law provides that benefits will not be charged to the employment record of a contributing employer who furnishes required notice to the Agency when the claimant was discharged for misconduct connected with the work. Since no misconduct was established, the

employer's tax account will be charged.

Decision: The determination dated December 5, 2013, is REVERSED. The claimant is qualified for the receipt of 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 to the last known address of each interested party on January 10, 2014

KATHY MCCONNELL
Appeals Referee

By: 

GAIL ALLEN, 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 mailing 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 fecha 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 nou poste sa a ba ou. Si 20^{yèm} 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.
