

**STATE OF FLORIDA**  
**REEMPLOYMENT ASSISTANCE APPEALS COMMISSION**

In the matter of:

Claimant/Appellant

R.A.A.C. Docket No. 19-00447

vs.

Referee Decision No. 0035318567-02U

Employer/-None

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**ORDER OF REEMPLOYMENT ASSISTANCE APPEALS COMMISSION**

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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 that the claimant received reemployment assistance to which she was not entitled and is liable to repay. However, we do not now address the merits of this issue, as the decision must be vacated and the case remanded for a supplemental hearing to address the threshold matter of the claimant's monetary qualification for benefits.

The claimant filed her initial claim for benefits with an effective date of August 26, 2018. On October 1, 2018, the Department determined she was monetarily qualified for benefits based on wages she earned in both Florida and New Jersey, but indicated that there were "Pending Wage Requests" for wages earned in other states.<sup>1</sup> The claimant then collected benefits for a period of time. However, on

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<sup>1</sup> For the claimant's benefit, we briefly explain the legal landscape of "combined wage claims." Claims based on combined wages of more than one state are authorized under the Federal Unemployment Tax Act, but are subject to federal regulations. *See* 20 C.F.R. §616.1. Under this arrangement, Florida must request that other states "transfer" the claimant's employment and wages during the base period before using such wages to establish a Florida claim. 20 C.F.R. §616.8(a). Moreover, all employment and wages in all states in which the individual worked during the base period of the claim must be included in such combining, unless the wages are designated as not transferrable under the provisions of 20 C.F.R. §616.9(b). 20 C.F.R. §616.7(c). For example, a transferring state's issuance of a nonmonetary determination prior to the request for transfer of wages can render the wages not transferable. 20 C.F.R. §616.9(b)(2); Office of Workforce Security, Empl. & Training Admin., U.S. Dep't of Labor, ET Handbook No. 399, Unemployment Compensation Claims Filed Under the Interstate Arrangement for Combining Employment and Wages, III-3. Each state determines wage credits for non-federal employees working within it under its own law. Furthermore, any dispute involving the amount of employment and wages subject to transfer from another state shall be decided by the transferring state in accordance with its own law. 20 C.F.R. §616.9(d)(3). Accordingly, neither the referee, nor the Department, nor the Commission here in Florida has jurisdiction to order that another state transfer any wages to establish a monetarily-qualified Florida claim. Additionally, a claimant cannot establish a combined wage claim in one state if she has an open, unexhausted claim in another state. *See* 26 U.S.C. §3304(a)(9)(B); 20 C.F.R. §616.7. And wages used to establish a claim cannot be used again thereafter to establish another benefit claim. 20 C.F.R. §616.10.

February 5, 2019, the Department issued a monetary redetermination that reflected the claimant had no base period wages available upon which to base a claim for benefits. The determination indicated that the matter was redetermined because the claim for benefits had been withdrawn.

The next day (February 6, 2019), the Department issued a Notice of Disqualification holding the claimant was required to repay an overpayment for benefits paid to her before the issuance of the monetary redetermination that held she was not monetarily qualified for benefits. That same day, the claimant filed an appeal, which was docketed by the Office of Appeals as an appeal of only the overpayment determination.

At the hearing it became clear that, underlying the claimant's appeal of the overpayment determination, the claimant was protesting the monetary redetermination on the ground that she had not withdrawn her claim. However, because an appeal of the monetary redetermination was not docketed, the Notice of Hearing had not identified the claimant's monetary qualification as an issue to be decided and, importantly, the Department's Combined Wage Claim unit was not provided notice of the hearing.

On remand, the Office of Appeals is directed to docket a first-stage appeal of the February 6 monetary redetermination. In addition, because the question of whether the claimant was overpaid benefits will be controlled by the claimant's monetary qualification for benefits, the referee's decision on the issue of overpayment is vacated and remanded. The referee shall hold a consolidated hearing to address both the claimant's appeal of the monetary redetermination as well as her appeal of the overpayment determination.

On remand, notice should be provided to the Department so that it can present a witness and any relevant documentation to explain the reason the Department considered the claim to have been withdrawn (either by the claimant or by operation of law), resulting in the February 6, 2019 monetary redetermination and trailing overpayment determination.<sup>2</sup> Because this claim involved combined wages of Florida and New Jersey, a Notice of Hearing must be sent to the Department at: Department of Economic Opportunity, Combined Wage Claim Unit, 1940 North Monroe Street, Suite 72A, Tallahassee, Florida 32303.

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<sup>2</sup> Federal regulations establish the mechanism for written correspondence among states with respect to the request and transfer of wages for a combined wage claim. See E.T. Handbook No. 399, *supra*, at IV-1, 5-6. Should the Department submit such documentation as evidence, it should also present a witness who can explain that evidence.

The decision of the appeals referee is vacated and the case is remanded for further proceedings. Furthermore, the referee is directed to docket a first-stage appeal of the February 6 monetary redetermination and hold that hearing concurrently with the claimant's appeal in this case.

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

5/31/2019,

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



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**Docket No.0035 3185 67-02**

Jurisdiction: §443.151(4)(a)&(b) Florida Statutes

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***CLAIMANT/Appellant***

***EMPLOYER/Appellee***

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APPEARANCES:

Claimant

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### 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:** OVERPAYMENT: Whether the claimant received benefits to which the claimant was not entitled, and if so, whether those benefits are subject to being recovered or recouped by the Department, pursuant to Sections 443.151(6); 443.071(7),443.1115; 443.1117, Florida Statutes and 20 CFR 615.8.

**Findings of Fact:** The claimant filed a claim for reemployment assistance effective August 26, 2018, with the state of Florida, establishing a weekly benefit amount of \$275. For weeks ending September 15, 2018, through December 1, 2018, she received twelve (12) payments of \$275. The claim with Florida was withdrawn on November 5 or 6, 2018. The claimant reopened her claim the week ending November 10, 2018.

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

The entry into evidence of a transaction history generated by a personal identification number establishing that a certification or claim for one or more weeks of benefits was made against the benefit account of the individual, together with documentation that payment was paid by a state warrant made to the order of the person or by direct deposit via electronic means, constitutes prima facie evidence that the person claimed and received reemployment assistance benefits from the state.

The record shows the claimant received \$3300 in reemployment assistance benefits for the weeks ending September 15, 2018, through December 1, 2018. It was revealed the claimant's claim for benefits was withdrawn causing her wage credits to be reduced to \$0. Thus, benefits received by the claimant during this period are considered an overpayment as the claimant was not monetarily eligible for benefits.

**Decision:** The determination dated February 6, 2019, 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 March 8, 2019.

**D. PARKER**  
Appeals Referee

By: 

ANTONIA SPIVEY (WATSON), 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 20<sup>th</sup> 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](http://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 envío 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](https://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](https://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.

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