

STATE OF FLORIDA
REEMPLOYMENT ASSISTANCE APPEALS COMMISSION

In the matter of:

Claimant/Appellant

R.A.A.C. Docket No. 20-01311

vs.

Referee Decision No. 0061882304-02U

Employer/-None

ORDER OF REEMPLOYMENT ASSISTANCE APPEALS COMMISSION

This case comes before the Commission for disposition of the claimant's appeal pursuant to Section 443.151(4)(c), Florida Statutes, of a referee's decision holding that the claimant received reemployment assistance to which he was not entitled and is liable to repay.

The issue before the Commission is whether the claimant received any sum as benefits under the reemployment assistance law to which the claimant is not entitled as provided in Section 443.151(6), Florida Statutes, for the weeks ending May 23, 2020, through July 25, 2020. Based on the Commission's review of the claim history and hearing record, it appears the claimant's alleged overpayment may have resulted from possible errors in the difficult process of coordinating payments from the multiple benefits programs available during the pandemic. Consequently, we quash the overpayment determination and the referee's decision under review.

In order to mitigate the significant employment disruption caused by the COVID-19 pandemic, Congress passed the CARES Act, and President Trump signed the act into law on March 27, 2020. This act created three new federal benefits programs to add to the already existing state-level benefits. Of immediate relevance to this case are Pandemic Emergency Unemployment Compensation (PEUC) and Pandemic Unemployment Assistance (PUA).

PEUC is a temporary federal benefits program that provides up to 13 additional weeks of benefits for individuals who have exhausted their regular reemployment assistance claim after July 1, 2019. 15 U.S.C §9025(b)-(c). PUA, on the other hand, is only available to individuals who are self-employed, do not have sufficient work history, or otherwise would not qualify for regular Florida reemployment assistance, state extended benefits, or PEUC. 15 U.S.C. §9021(a)(3)(A)(ii)(2). PUA coverage extends only to individuals who are unemployed, partially unemployed, or unable or unavailable to work as a direct result of the COVID-19 pandemic for weeks in which they are not entitled to any other unemployment compensation or waiting week credit. 15 U.S.C. §9021(b).

Regarding this claimant, Department records reflect a determination was issued under Issue Identification No. 0035718586-03 on May 7, 2019, holding the claimant disqualified from receipt of regular reemployment assistance benefits from March 24, 2019, and until he earned 17 times his weekly benefit amount because he quit his employment with the employer without good cause. *See* §443.101(1)(a), Fla. Stat. The claimant appealed the determination, but the referee dismissed the appeal under Referee Docket No. 0035718586-04 due to the claimant's nonappearance at the scheduled hearing. That dismissal was not appealed; consequently, the disqualification from regular reemployment assistance benefits remains in effect. On March 26, 2020, a determination was rendered under Issue Identification No. 0038057497-01 holding the claimant had not earned sufficient income to remove the prior disqualification. The claimant appealed this determination, and it was affirmed by an appeals referee on May 20, 2020.

A monetary determination was also issued on May 20, 2020, with a claim effective date of May 17, 2020, holding the claimant was not monetarily qualified for regular benefits for the new claim year due to insufficient wage credits; however, on May 21, 2020, a Pandemic Unemployment Assistance (PUA) monetary determination was issued holding the claimant entitled to the minimum PUA weekly benefit amount of \$125. On August 14, 2020, the Department issued a PEUC monetary determination holding the claimant entitled to a PEUC claim based on the prior claim year, with a weekly benefit amount of \$275.

Department records reflect from May 17, 2020, through July 25, 2020, the weeks the claimant was allegedly overpaid regular reemployment assistance benefits, the claimant received \$125 a week in payments classified as PEUC benefits. It appears, however, that these may have originally been classified as PUA payments and later erroneously converted to PEUC payments, to which the claimant was not entitled based on his prior disqualification.¹

¹ A claimant who is disqualified on a regular claim is not considered an exhaustee because there would be a remaining balance on the UC claim and the benefit year has not ended. 15 U.S.C. § 9025(a)(2); Emp. & Training Admin., U.S. Dep't of Labor, Unemp. Ins. Program Letter 17-20, Change 1, p. I-6, #4 (May 13, 2020).

In order for the Department to determine whether the claimant was properly processed under the PEUC program or whether he should be processed under the PUA program, the Commission quashes the August 14, 2020 initial determination (Issue Identification No. 0061882304-01) and Referee Decision No. 0061882304-02 (September 24, 2020). The Department is asked to reexamine the claimant's assignment to the various benefits programs over time and take any necessary action to reassign the claimant to the appropriate benefits program.

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
11/30/2020,
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: Benjamin Bonnell
Deputy Clerk



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



*152813452 *

Docket No.0061 8823 04-02

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

CLAIMANT/Appellant

EMPLOYER/Appellee

APPEARANCES:

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: 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, Florida Statutes and 20 CFR 615.8.

Findings of Fact: The claimant was previously disqualified in a determination dated May 7, 2019 which was affirmed in Decision No. 0038 0574 97-02. The determination finds the claimant disqualified from March 24, 2019 and until earning \$4,675.00. For the weeks ending May 23, 2020 to July 25, 2020 the claimant received benefits in the amount of \$125.00.

Conclusion 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 claimant was previously disqualified from receiving benefits. Accordingly, the benefits received for the weeks ending May 9, 2020 to June 20, 2020 are overpayments.

Decision: The determination dated August 14, 2020 is **AFFIRMED**. The claimant was previously disqualified and not entitled to benefits. The benefits received for the weeks ending May 23, 2020 to July 25, 2020 are overpayments.

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 September 24, 2020.

E. Landy
Appeals Referee

By:



CLAUDETTE SILVERA, 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-21.003(4), 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, 1211 Governors Square Boulevard, Suite 300, Tallahassee, FL 32301-2975; (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-21.003(4), 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 reembolsar 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, 1211 Governors Square Boulevard, Suite 300, Tallahassee, FL 32301-2975; (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 definitiv 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-21.003(4), 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 pèman 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, Reemployment Assistance Appeals Commission, 1211 Governors Square Boulevard, Suite 300, Tallahassee, FL 32301-2975; (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.

An equal opportunity employer/program. Auxiliary aids and services are available upon request to individuals with disabilities. All voice telephone numbers on this document may be reached by persons using TTY/TDD equipment via the Florida Relay Service at 711.