

STATE OF FLORIDA
REEMPLOYMENT ASSISTANCE APPEALS COMMISSION

In the matter of:

Claimant/Appellant

R.A.A.C. Docket No. 20-01588

vs.

Referee Decision No. 0046408834-02P

Employer/-None

ORDER OF REEMPLOYMENT ASSISTANCE APPEALS COMMISSION

This case comes before the Commission on a deemed appeal of a referee's decision affirming the determination distributed May 12, 2020, which held the claimant eligible, as of April 26, 2020, for Pandemic Unemployment Assistance ("PUA") under the Coronavirus Aid, Relief, and Economic Security Act of 2020 ("CARES Act"), created by Public Law 116-136 (March 27, 2020), codified at 15 U.S.C. Chapter 116.¹ Florida law governs the appeals process for PUA. Emp. & Training Admin., U.S. Dep't of Labor, Unemp. Ins. Program Letter (UIPL) 16-20, Change 1, p. I-14, #54 (Apr. 27, 2020). The Commission has jurisdiction pursuant to Section 443.151(4)(c), Florida Statutes.

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

In her automated appeal of the monetary determination and at the hearing, the claimant contended only that she was entitled to PUA beginning March 29, 2020 (week ending April 4, 2020) rather than the April 26, 2020 claim effective date listed on the PUA determination. Department records reflect that at the time of the

¹ The claimant submitted 63 pages of evidence to the referee after the decision was entered below. This submission was forwarded to the Commission and is deemed an appeal pursuant to Fla. Admin. Code R. 73B-21.002(3)(a).

November 2, 2020 hearing, the Department had already backdated the claim to March 29, 2020, and paid PUA benefits beginning on that date.² Because the claimant's sole argument at the hearing and in her letter of appeal was regarding the matter of backdating, which was fully resolved in her favor prior to the hearing, this appeal is dismissed as moot.

Although the claimant only sought backdating of her claim, she submitted her 2019 Form 1099-MISC for the hearing, reflecting she earned nonemployee compensation of \$43,569.60. She never indicated in her appeal letter or at the hearing, or in her request for review by the Commission, that she believed she was entitled to a higher weekly benefit amount (WBA). Moreover, the administrative record does not reflect that the claimant ever requested monetary reconsideration by the Department, which is the starting point to address such a concern. *See* UIPL 16-20 Change 1, p. I-5, Q20 (Apr. 27, 2020) (an individual may submit additional documentation at any time during the Pandemic Assistance Period³ to substantiate wages earned or paid during the base period, and the state must issue a monetary redetermination if the state determines the wage documentation is sufficient to permit a re-computation). Thus, that matter was not properly before the referee and is not before us.

While beyond the scope of the issues before us, we note that in order to establish a higher PUA weekly benefit amount, the claimant must establish how much she earned each quarter of 2019. *See* 15 U.S.C. § 9021(d) and 20 C.F.R. §625.6(a)(1)⁴; §443.111(2) and (3), Fla. Stat.⁵ At the hearing below, the claimant did not have this evidence. Thus, *even if* the claimant had raised the issue below and

² The Commission Clerk is directed to mark the screenshots of the CONNECT weekly benefit details for the period from March 29, 2020, through the week ending April 26, 2020, the claim effective date listed on the PUA determination as R.A.A.C. Exhibit 1 and the CONNECT overpayment history for that period as R.A.A.C. Exhibit 2.

³ The Pandemic Assistance Period for claims filed on or before December 27, 2020, is January 27, 2020 through April 10, 2021. *See* UIPL 16-20 Change 4, Attachment III-1 (Jan. 8, 2021).

⁴ The calculation of the PUA WBA is provided in 15 U.S.C. §9021(d) and 20 C.F.R. 625.6 and is mostly the same as for DUA with a few exceptions. In determining the PUA/DUA WBA, the benefit formula of the applicable state law shall be applied. Employment, wages, and self-employment not covered by the applicable state law shall be treated in the same manner and with the same effect as covered employment and wages. In PUA cases, unlike DUA cases, if the individual does not provide proof of earnings within 21 days, the WBA will be reduced to the minimum PUA WBA. *See* UIPL 16-20, Change 1, p. I-5, #20 (Apr. 27, 2020).

⁵ To be monetarily qualified for benefits in Florida: (1) you must have been paid wages in two or more calendar quarters in the base period (the first four of the last five completed calendar quarters prior to the quarter of the benefit year); (2) your total wages must be at least \$3,400, and (3) your total base period wages must be equal to or more than one and a half times your highest quarter wages. §443.111(2), Fla. Stat. An individual's weekly benefit amount in Florida is an amount equal to the high quarter wages of the base period divided by 26, but not more than the maximum of \$275.

properly appealed it, she did not present sufficient proof to establish entitlement to a higher weekly benefit amount. Until she obtains and presents such evidence to the Department, she will only be entitled to the minimum PUA weekly benefit amount of \$125. Emp. & Training Admin., U.S. Dep't of Labor, Unemp. Ins. Program Letter No. 16-20, Change 2 at I-2, #3 (Dec. 12, 2019).

However, evidence in the additional 63 pages of documents the claimant submitted to the Commission suggests the claimant may qualify for a higher weekly benefit amount. We did not consider these documents since they are not relevant to proper issues below; instead, the submission should have been addressed to the Department as a request for a monetary redetermination. Accordingly, we have forwarded the documents to the Department for such consideration.

Because the sole issue the claimant raised on appeal was backdating her claim to March 29, 2020, and Department records reflect the claim was backdated to that date, we dismiss the claimant's appeal as moot.

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

2/3/2021,

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



*168328990 *

IMPORTANT: For free translation assistance, you may call 1-800-204-2418. Please do not delay, as there is a limited time to appeal.

IMPORTANTE: Para recibir ayuda gratuita con traducciones, puede llamar al 1-800-204-2418. Por favor hágalo lo antes posible, ya que el tiempo para apelar es limitado.

ENPÒTAN: Pou yon intèpret asistè ou gratis, nou gendwa rélé 1-800-204-2418. Sil vou plè pa pràn àmpil tòn, paské tòn limitè pou ou ranpli apèl la.

Docket No. 0046 4088 34-02

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

CLAIMANT/Appellant

EMPLOYER/Appellee

APPEARANCES

Claimant

PANDEMIC UNEMPLOYMENT ASSISTANCE APPEAL DECISION

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:

WAGE CREDITS: Whether the claimant was paid sufficient base period wages to qualify for unemployment compensation benefits, pursuant to Sections 443.036(21), (27), (45); 443.091(1)(g); 443.111; 443.1216, Florida Statutes; Rule 73B-11.016, Florida Administrative Code.

WAGE CREDITS: Whether the claimant was paid sufficient base period wages to qualify for unemployment compensation benefits, pursuant to Sections 443.036(21), (27), (45); 443.091(1)(g); 443.111; 443.1216, Florida Statutes; Rule 73B-11.016, Florida Administrative Code.

ADDITIONAL WAGE CREDITS: Whether the claimant earned additional wages for insured work during the base period, pursuant to Sections 443.036(21), (27), (45), 443.111; 443.1216, Florida Statutes; Rule 73B-11.016, Florida Administrative Code.

INSURED WORK: Whether services performed by the claimant during the base period constitute "employment," pursuant to Sections 443.036(21), 443.036(27); 443.1216, Florida Statutes.

Findings of Facts: The claimant applied for benefits effective April 26, 2020. The claimant's base period was established as the first quarter of 2019, through the fourth quarter of 2019. The claimant is self-employed realtor. The claimant performs services during the base period of the claim as a self employed realtor.

Conclusions of Law: To qualify for Reemployment Assistance benefits, the claimant must have:

Base period wages for insured work in two or more calendar quarters of the base period; and

Total base period wages equaling at least 1.5 times the wages paid during the high quarter of the base period, but not less than \$3400.

The "base period" is the first four of the last five completed calendar quarters immediately preceding the first day of the benefit year. The "high quarter" is the calendar quarter in which the most wages were paid. The weekly benefit amount equals one twenty-sixth of the total wages paid during the high quarter, but not less than \$32 or more than \$275. Available benefits equal twenty-five percent of total base period wages, with a maximum of \$6,325.

The record and evidence in this case show that the claimant had no record of the wages she earned during the quarters of the base period. Therefore the claimant did not provide the sufficient evidence for the claim.

Decision: The determination dated May 12, 2020, is AFFIRMED.

This is to certify that a copy of the above decision was distributed/mailed to the last known address of each interested party on November 10, 2020.

N. Gilliard
Appeals Referee



Kendra Johnson, 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 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, 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 mesajè lèt 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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