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NEW YORK STATE DEPARTMENT OF LABOR

UNEMPLOYMENT INSURANCE DIVISION

ADJUDICATION SERVICES OFFICE

April, 2024

INTERPRETATION SERVICE-BENEFIT CLAIMS

599 Program

*Twelve Hours of Classroom Instruction*

It is a well-established matter of unemployment insurance case law that a training program of less than twelve hours per week in a structured institutional setting, in person and/or remote, fails to meet the requirements of the §599 program.

AB 632070

The Department of Labor issued the initial determination, denying the claimant approval for career and related training under Labor Law § 599 (1). The claimant requested a hearing.

The Administrative Law Judge held a telephone conference hearing at which all parties were accorded a full opportunity to be heard and at which testimony was taken. There was an appearance by the claimant. By decision filed January 11, 2024 (A.L.J. Case No. 323-02989), the Administrative Law Judge overruled the initial determination.

The Commissioner of Labor appealed the Judge's decision to the Appeal Board. The Board considered the arguments contained in the written statement submitted on behalf of the Commissioner of Labor.

Based on the record and testimony in this case, the Board makes the following

FINDINGS OF FACT: After filing a claim for unemployment insurance benefits effective March 20, 2023, the claimant became aware that he could collect unemployment benefits while pursuing career and related training.

He enrolled in graduate school as of July 2023, to pursue a master’s degree. As of September 5, 2023, the claimant was taking two courses for a total of six credits in the first semester of his master’s degree program. The Department Chair for the claimant’s program informed the claimant that six credit hours towards his degree was recommended because his classes involved significant work, research, and experimentation. The Department Chair considers nine credit hours a full-time semester and opined that the 12-credit hour requirement would undermine “the most optimal progression through the curriculum.”

OPINION: Pursuant to Labor Law 12 NYCRR § 482.2(b) "Career and related training means any training program clearly leading to the qualifications or skills for a specific occupation, including but not limited to basic education skills, occupations skills training and skills upgrading; and consisting of one or more approved training courses or activities which require attendance at training for at least 12 hours in each week and a training period requiring no more than 24 months to complete."

The credible evidence establishes that the claimant was taking six credit hours in the fall of 2024. “It is well settled that a training program consisting of less than 12 hours per week of classroom training during a semester fails to meet the requirements of the § 599 program.” (*See* Appeal Board No. 555624, citing *Matter of Lohman*, 6 AD3d 916 [3d Dept 2003] and *Matter of Winston*, 307 AD2d 574 [3d Dept 2003].) Participation under 12 NYCRR § 482 has been interpreted as meaning attendance in a structured institutional setting twelve of more hours per week. (*See* *Matter of Delgado*, 10 AD3d 840 [3d Dept 2004]; and *Matter of Winston*, 307 Ad2d 574 [3d Dept 2004].)

Although the hearing Judge asserted that the 12-credit hour standard could be waived by the Commissioner of Labor “when it [was] … impossible for the customer to attend school full-time, or the requirement [would] cause undue hardship for the customer”, the claimant does not offer any testimony or evidence to support such a waiver. Nor is there any evidence that the “school’s policy … limit(ed) the number of class hours or credits students [could] register for due to the nature or intensity of the program’s curriculum.” Instead, the claimant accepted the recommendation of the Department Chair to begin coursework with six credits. And, even if we were to credit the Department Chair's contention that the nature and intensity of the coursework mandated less than 12-credit hours, the Department Chair also clarified “9-credit hours is considered to be a full-time courseload.” Consequently, the claimant was not pursuing a full-time courseload for his graduate studies with his six credit hours. Hence, we conclude that the claimant, in enrolling in less than twelve credit hours for this semester, was properly denied benefits under Labor Law § 599 (1).

DECISION: The decision of the Administrative Law Judge is reversed.

The initial determination, denying the claimant approval for career and related training under Labor Law § 599 (1), is sustained.

The claimant is denied benefits with respect to the issues decided herein.

COMMENTS

1. The rule above applies to both undergraduate and graduate level training.
2. This rule *may* be waived by the Commissioner if the claimant can demonstrate that participation in twelve hours of instruction per week will cause either undue hardship to the claimant or it is impossible for the claimant to attend class 12 hours per week.