

## Notice of Emergency Rule

### DEPARTMENT OF ECONOMIC OPPORTUNITY

#### Division of Workforce Services

RULE NO.: RULE TITLE:

73BER21-1 Determinations Regarding Discharges for Noncompliance with a COVID-19 Vaccination Mandate  
SPECIFIC REASONS FOR FINDING AN IMMEDIATE DANGER TO THE PUBLIC HEALTH, SAFETY OR WELFARE: Pursuant to sections 112.0441(4) and 381.00317(6), Florida Statutes, the Department is not required to make findings of an immediate danger to the public, health, safety, or welfare as all conditions are deemed met to adopt emergency rules pursuant to section 120.54(4), Florida Statutes.

REASON FOR CONCLUDING THAT THE PROCEDURE IS FAIR UNDER THE CIRCUMSTANCES: Pursuant to sections 112.0441(4) and 381.00317(6), Florida Statutes, the procedures are deemed fair under the circumstances.

SUMMARY: The rule provides that individuals filing for Reemployment Assistance benefits will not be disqualified from receiving benefits if the individual was discharged for refusing to comply with a COVID-19 vaccination mandate in circumstances where the employer failed to comply with sections 381.00317(1) and 381.00317(2), Florida Statutes, or section 112.0441(1)(b), Florida Statutes.

THE PERSON TO BE CONTACTED REGARDING THE EMERGENCY RULE IS: Karen Gates at Karen.Gates@deo.myflorida.com.

THE FULL TEXT OF THE EMERGENCY RULE IS:

#### 73BER21-1 Determinations Regarding Discharges for Noncompliance with a COVID-19 Vaccination Mandate

(1) A claimant will not be disqualified from receiving Reemployment Assistance benefits if the claimant is discharged from a private employer for the claimant's refusal to comply with the private employer's COVID-19 vaccination mandate, and the private employer did not offer and properly apply the exemption requirements listed in section 381.00317(1), Florida Statutes.

(2) Private Employer Responsibilities. The private employer has the burden to prove that the private employer offered and properly applied the COVID-19 vaccination mandate exemptions listed in section 381.00317(1), Florida Statutes. If the Attorney General imposed a fine against the private employer for failing to comply with sections 381.00317(1) and 381.00317(2), Florida Statutes, the private employer cannot meet its burden with respect to any claimant that was denied an exemption as a result of such failure.

(3) Claimant Responsibilities. If a claimant has been discharged from employment with a private employer due to the claimant's noncompliance with his or her private employer's COVID-19 vaccination mandate and the private employer provides information to the Department of Economic Opportunity that shows the private employer offered and properly applied the COVID-19 vaccination mandate exemptions listed in section 381.00317(1), Florida Statutes, the claimant must provide a copy of the document that was submitted to his or her private employer specifying that the claimant qualified for an exemption under section 381.00317(1), Florida Statutes. This documentation will be submitted by the claimant to the Department of Economic Opportunity during the fact-finding process, which is initiated by the Department of Economic Opportunity. If the claimant cannot provide a copy of this document, he or she must provide a signed document attesting to the fact that he or she did submit a request to opt out of the private employer's COVID-19 vaccination mandate and was eligible for a qualified exemption pursuant to section 381.00317(1), Florida Statutes.

(4) A claimant will not be disqualified from receiving Reemployment Assistance benefits if the claimant is discharged from an educational institution, as that term is defined in section 112.0441(1)(b), Florida Statutes, or a governmental entity, as that term is defined in section 768.38, Florida Statutes, for the claimant's refusal to comply with a COVID-19 vaccination mandate imposed by the educational institution or governmental entity.

(5) Educational Institution and Governmental Entity Responsibilities. The educational institution or governmental entity has the burden to prove that the claimant was not discharged for the claimant's refusal to comply with a COVID-19 vaccination mandate imposed by the educational institution or governmental entity. Rulemaking Authority sections 381.00317(6)(b) and 112.0441(4), Florida Statutes. Laws Implemented sections 381.00317(5) and 112.0441(3), Florida Statutes. History-New.

THIS RULE TAKES EFFECT UPON BEING FILED WITH THE DEPARTMENT OF STATE UNLESS A LATER TIME AND DATE IS SPECIFIED IN THE RULE.

EFFECTIVE DATE: November 23, 2021