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DECISION

ISSUE ID: 0015 4468 33-02

I. STATUTORY PROVISION(S) AND ISSUE(S) OF LAW:

MGL Chapter 151A, §30(c) & 430 CMR 9.00-9.09 - Whether the claimant's application for Section 30 training shall be approved and, if so, whether the claimant is entitled to additional benefits of up to twenty-six times his benefit rate.

II. FINDINGS OF FACT:

1. The claimant became separated from employment, he filed and was approved for unemployment benefits, effective 3-23-14.
2. The claimant's benefit year end date is 3-21-15.
3. The claimant submitted an application for Section 30 Training Opportunities Program at the time of his filing.
4. The claimant was approved for Section 30 benefits for a full time surgical technician program with a scheduled completion date of December of 2014.
5. The claimant successfully participated in courses in this program through August of 2014. In approximately August of 2014 the claimant became aware that his disability of Complex Regional Pain Syndrome, the result of a work-related injury, would prevent his completion of the approved course.
6. The claimant was able to transfer courses toward a program in Engineering Design at the same training institution, which was compatible with the limitations he faces due to his disability.
7. The claimant submitted application to continue Section 30 benefits under this 2nd program. The Engineering Design program is a Section 30 approved program. The claimant's application was submitted on or about 12-15-14. The program is full time. Utilizing credits (20) transferred from the claimant's prior program enrollment, the claimant has an expected completion date of the program's 62 required credits on 12-30-15.

8. On 1-30-15 the claimant was issued a Notice of Disqualification denying training approval because the claimant was enrolled in a "second program".
9. The claimant filed an appeal on that determination.

III. CONCLUSIONS & REASONING:

The claimant attended the hearing.

The claimant filed an initial Training Opportunities Program Application, for which he was approved, and then another application on or about 12-15-14, within his benefit year. This second application was also for a Section 30 approved program. The claimant was denied approval based upon it being a "second program."

The completion date of this "second program" is based upon the incorporation of previous credits earned by the claimant, including credits from the "1st program". The claimant's transfer from the 1st to the 2nd program was necessitated by his disability, when he learned in the course of the program that he could not physically perform the program's requirements.

430 CMR 9.04(1) provides in pertinent part, "claimants must possess sufficient aptitude and skills to successfully complete and benefit from the approved training, provided that individuals with disabilities are not denied eligibility due to their disability and without the consideration of reasonable accommodation to facilitate their participation including but not limited to reasonable modifications of attendance policies..."

In the instant case, when it was discovered that the claimant's disability would prohibit completion of the program, as documented by his Vocational Consultant, his program of study was changed to one which falls within his physical capabilities. The "second program" is also full time and will be completed within the designated 2 year period.

The change in program is effectively a modification, as opposed to a 2nd program application, necessitated by the claimant's disability. This modification is a reasonable accommodation for the claimant's disability. The claimant, meeting all other applicable Section 30 eligibility requirements, is not disqualified from receipt of Section 30 benefits

The claimant is therefore entitled to Extended Section 30 benefits if otherwise eligible.

IV. DECISION:

The determination is reversed.

The claimant is entitled to Section 30 Extended Benefits if otherwise eligible.

HEARINGS DEPARTMENT

BY: Elizabeth Cloutier

REVIEW EXAMINER

COPIES TO:

Appellant
Appellant's Attorney
Employer
Employer's Rep/Attorney
Local Office
File

Appendix A

Appeal Filed Date:2/23/2015

Issue ID:0015 4468 33-02

Issue Type
Section 30

Issue Start Date
9/2/2014

Issue End Date
12/22/2015

Decision
Reverse

Additional Notes:

This notice contains important information regarding the appeal identified on the first page of this notice. It is important to have it translated immediately. You may need to respond by a certain date to protect your rights.

Esta notificación contiene información importante sobre la apelación identificada en la primera página de esta notificación. Es importante que este formulario se traduzca de inmediato. Es posible que usted tenga que responder para una determinada fecha para proteger sus derechos.

Este aviso contém informações importantes relacionadas à apelação identificada na primeira página do aviso. É importante que este documento seja traduzido imediatamente. Pode ser necessário que você responda dentro de um prazo específico para proteger seus direitos.

В настоящем уведомлении содержатся важные сведения об апелляции, указанной на первой странице настоящего уведомления. Необходимо незамедлительно обеспечить его перевод. Чтобы защитить свои права, вам, возможно, необходимо будет ответить до определенной даты.

Avis sa gen enfòmasyon enpòtan konsènan apèl ki idantifye sou premye paj avi sa. Li trè enpòtan pou fi yon moun tradwi sa pou ou touswit. Ou ka bezwen reponn avan yon dat spèsifik pou pwoteje dwa w yo.

Il presente avviso contiene importanti informazioni in merito al ricorso riportato nella prima pagina del presente documento. Tradurre quanto prima il presente modulo. È possibile che si richieda risposta entro una certa data al fine di proteggere i diritti del soggetto.

Cet avis contient d'importants renseignements sur l'appel identifié en première page de cet avis. Il est important de le faire traduire immédiatement. Il se peut que, pour protéger vos droits, vous deviez répondre avant une certaine date.

កំណត់ហេតុនេះមានព័ត៌មានសំខាន់ៗ ពាក់ព័ន្ធនឹងបណ្តឹងតវ៉ា

នៅក្នុងទំព័រដំបូង នៃកំណត់ហេតុនេះ។

វាសំខាន់ណាស់ដែលមានការបកប្រែយ៉ាងឆាប់រហ័ស។

អ្នកប្រើប្រាស់អាចត្រូវការឆាប់

ឆាប់កំណត់កាលបរិច្ឆេទដើម្បីការពារសិទ្ធិរបស់អ្នក។

Thông báo này có các thông tin quan trọng về việc kháng cáo đã được xác định trên trang đầu tiên của thông báo này. Việc dịch ngay thông báo này là rất quan trọng. Quý vị có thể cần phải trả lời chậm nhất vào ngày cụ thể để bảo vệ quyền của mình.

ໜັງສືແຈ້ງການນີ້ລວມມີຂໍ້ມູນທີ່ສຳຄັນກ່ຽວກັບການຂໍອຸທອນທີ່ໂຕ້ງຳນົດ ຢູ່ໃນໜ້າທຳອິດຂອງໜັງສືແຈ້ງການນີ້. ການເອົາໜັງສືນີ້ມາແປໃນທັນທີ ແມ່ນສຳຄັນຫລາຍ. ທ່ານອາດຈະຈຳເປັນຕ້ອງ ຕອບມັນໃຫ້ທັນໃນວັນທີ່ສະເພາະໃດໜຶ່ງ ເພື່ອປົກປ້ອງສິດທິຂອງທ່ານ.

這份通知包含了有關本通知第一頁中所指上訴的重要資訊。因此立即請人翻譯相關內容是非常重要的，您或許必須在某個時間之前提出答覆狀以保護您的權利。

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