



Department of Inspections,  
Appeals, & Licensing

Iowa Department of Inspections, Appeals, & Licensing  
Administrative Hearings Division  
6200 Park Avenue, Suite 100, East Entrance  
Des Moines, IA 50321-1270

**Appeal Decision**

Claim Number:

Determination Number:  
7332309

Appeal Filed By:  
NANCY GALICIA MORAN

Appeal Filed Date:  
08/06/2025

Appeals Bureau Docket:  
2025144997-AT

[Redacted]

**APPEALS BUREAU DECISION OF ADMINISTRATIVE LAW JUDGE**

Mail Date: September 15, 2025

**Appellant**

Claimant/Job Seeker:  
Claimant address:

NANCY GALICIA MORAN

**Appellee**

Employer:

Hy-Line International

Social Security Number:

In regard to the appeal by NANCY GALICIA MORAN:

**STATUTORY REFERENCE**

Iowa Code Section 96.5(2)(a) - Discharge  
Iowa Code Section 96.6(2) - Timeliness of Appeal

**ISSUES STATEMENT**

Whether the claimant's appeal was timely.  
Whether the claimant was discharged for misconduct in connection with the employment. Whether there is good cause to treat the appeal as timely.

**CASE HISTORY**

On August 6, 2025, Nancy Galicia Moran filed a late appeal from the Iowa Workforce Development (IWD) June 26, 2025 (mailing date) decision that disqualified her for unemployment insurance benefits and that held the employer's account would not be charged for benefits, based on the IWD deputy's conclusion that the claimant was discharged on May 28, 2025 for excessive unexcused absences and tardiness. After appropriate notice to the parties, an appeal hearing was held on August 28, 2025. The claimant participated personally and was represented by attorney Dan Feltes and paralegal Mayra Hernandez, both of Iowa Legal Aid. Jennifer Kueter represented the employer. Spanish-English interpreters from Lionbridge assisted with the hearing. Witness

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Victor Medina-Galvan appeared in response to the administrative law judge's subpoena. Exhibits A and B were received into evidence. On August 27, 2025, claimant's counsel submitted two proposed exhibits marked as Exhibits 1 and 2. Claimant's counsel did not serve the exhibits on the employer until after the appeal hearing commenced on August 28, 2025. Claimant's proposed Exhibits 1 and 2 were not received into evidence.

#### FINDINGS OF FACT

Having considered all of the evidence in the record, the administrative law judge finds as follows:

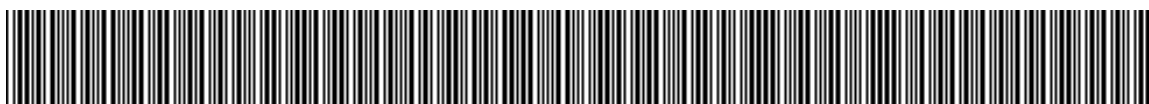
The June 26, 2025 (mailing date) decision disqualified the claimant for unemployment insurance benefits and held the employer's account would not be charged for benefits, based on the IWD deputy's conclusion that the claimant was discharged on May 28, 2025 for excessive unexcused absences and tardiness. The claimant received the decision in a timely manner. The decision included a warning that the decision would become final unless an appeal was postmarked or received by July 7, 2025. The claimant is a Spanish-speaking person. On July 7, 2025, the claimant went to the Iowa Workforce Development office on Army Post Road in Des Moines and with the assistance of RCM Career Planner Victor Medina-Galvan took steps to file an online appeal through IowaWORKS.gov. Prior to the claimant's departure from the IowaWORKS Center, Mr. Medina-Galvan confirmed to the claimant that the appeal was done. Mr. Medina-Galvan did not save the appeal in the computer system and no appeal was actually transmitted through the IowaWORKS.gov website. Mr. Medina-Galvan documented on July 7, 2025 that he had met with the claimant and had completed an appeal with the claimant. When the claimant did not hear anything in response to filing the appeal, she contacted Mr. Medina-Galvan and the pair met again on August 6, 2025 to repeat the process of filing an appeal through IowaWORKS.gov. On this second attempt, the appeal was appropriately saved and transmitted. The Appeals Bureau received the appeal on August 6, 2025.

The claimant was employed by Lohmann, Heinz et al/Hy-Line International as a full-time egg farm laborer from June 2024 until May 28, 2025, when the employer discharged the claimant from the employment for attendance. The claimant's work hours re 6:00 a.m. to 2:00 p.m., Monday through Friday. The claimant's work hours toward the end of the employment also included similar work hours on Saturday and Sunday of alternating weekends. Juan Guarado, Farm Supervisor, was the claimant's immediate supervisor.

If the claimant needed to be absent from the employment, the employer expected the claimant to contact her supervisor at least two hours prior to the scheduled start of her shift. The employer notified the claimant of the requirement at the start of the employment and reminded the claimant of this expectation on May 9, 2025. Given the claimant's 6:00 a.m. start time, the two-hour notice requirement would mean the claimant had to be awake prior to 4:00 a.m. in order to give notice by 4:00 a.m.

The claimant is an insulin-dependent diabetic. Toward the end of the employment, the claimant was also suffering from cholecystitis (gallstones and an inflamed gallbladder). The claimant was in need of gallbladder removal but could not undergo the procedure until her diabetes was better controlled. The claimant suffered from gall bladder attacks and from acute blood sugar issues that had to be resolved before she could report for work.

The final absence that triggered the discharge occurred on May 22, 2025, when the claimant was absent due to illness and provided notice at 4:43 a.m. The claimant had been dealing with a gallbladder attack. The claimant awoke at 4:40 a.m. and called the employer within three minutes.



The next most recent absence that factored in the discharge occurred on May 20, 2025, when the claimant gave notice at 5:23 a.m. of her need to be late for work due to illness. The claimant was experiencing low blood sugar and needed to resolve that issue before she could safety leave for work. The claimant arrived at 7:45 a.m.

The employer considered additional absences when making the decision to discharge the claimant from the employment. On May 1, 2025, the claimant was absent due to illness and notified the employer at 4:55 a.m. The claimant was dealing an acute high blood sugared incident. On May 7, 2025, the claimant left work at 7:46 a.m. due to illness and spoke with the supervisor prior to departing from the workplace. The claimant was dealing with a low blood sugar incident that caused her to feel dizzy and in pain. On May 11, 2025, the claimant was absent due to a gallbladder attack and notified the supervisor at 4:50 a.m. On May 13, 2025, the claimant was absent due to illness and notified the employer at 5:03 a.m. On May 16, 2025, the claimant was absent due illness and notified the employer at 4:45 a.m.

The employer did not issue any formal discipline to the claimant regarding her attendance issues prior to discharging from the employment.

#### CONCLUSION OF LAW

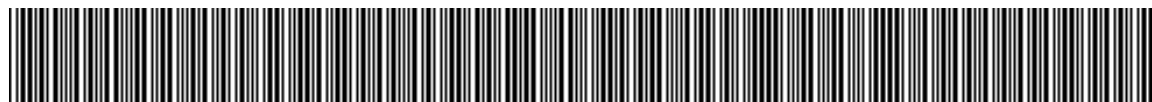
Iowa Code section 96.6(2) in relevant part as provides:

2. Initial determination. A representative designated by the director shall promptly notify all interested parties to the claim of its filing, and the parties have ten days from the date of mailing the notice of the filing of the claim by ordinary mail to the last known address to protest payment of benefits to the claimant. ... Unless the claimant or other interested party, after notification or within ten calendar days after notification was mailed to the claimant's last known address, files an appeal from the decision, the decision is final and benefits shall be paid or denied in accordance with the decision. ...

The ten-day deadline for appeal begins to run on the date Workforce Development mails the decision to the parties. The "decision date" found in the upper right-hand portion of the Agency representative's decision, unless otherwise corrected immediately below that entry, is presumptive evidence of the date of mailing. *Gaskins v. Unempl. Comp. Bd. of Rev.*, 429 A.2d 138 (Pa. Comm. 1981); *Johnson v. Board of Adjustment*, 239 N.W.2d 873, 92 A.L.R.3d 304 (Iowa 1976).

An appeal submitted by mail is deemed filed on the date it is mailed as shown by the postmark or in the absence of a postmark the postage meter mark of the envelope in which it was received, or if not postmarked or postage meter marked or if the mark is illegible, on the date entered on the document as the date of completion. See Iowa Administrative Code rule 871-24.27(1)(a). See also *Messina v. IDJS*, 341 N.W.2d 52 (Iowa 1983). An appeal submitted by any other means is deemed filed on the date it is received by the Unemployment Insurance Division of Iowa Workforce Development. See Iowa Administrative Code rule 871-24.27(1)(c).

The Iowa Supreme Court has declared that there is a mandatory duty to file appeals from representatives' decisions within the time allotted by statute, and that the administrative law judge has no authority to change the decision of a representative if a timely appeal is not filed. *Franklin v. IDJS*, 277 N.W.2d 877, 881 (Iowa 1979). Compliance with appeal notice provisions is jurisdictional unless the facts of a case show that the notice was invalid. *Beardslee v. IDJS*, 276 N.W.2d 373, 377 (Iowa 1979); see also *In re Appeal of Elliott*, 319 N.W.2d 244, 247 (Iowa 1982). One question in this case thus becomes whether the appellant was deprived of a reasonable



opportunity to assert an appeal in a timely fashion. *Hendren v. IESC*, 217 N.W.2d 255 (Iowa 1974); *Smith v. IESC*, 212 N.W.2d 471, 472 (Iowa 1973).

No submission shall be considered timely if the delay in filing was unreasonable, as determined by the division after considering the circumstances in the case. See Iowa Administrative Code rule 871-24.27(2)(c).

The weight of the evidence establishes good cause to deem the appeal a timely appeal. The claimant took appropriate steps to file the appeal on July 7, 2025. The claimant reasonably relied upon the IWD RCM Career Planner's statement that the appeal was successfully completed that day. Any delay in successful transmission of the appeal was attributable to IWD personnel and/or the IWD computer system, not the claimant. See Iowa Administrative Code rule 871-24.27(2). The administrative law judge has jurisdiction to enter a decision on the merits of the appeal. See *Beardslee v. IDJS*, 276 N.W.2d 373 (Iowa 1979) and *Franklin v. IDJS*, 277 N.W.2d 877 (Iowa 1979).

Iowa Code section 96.5(2)(a) and (d) provides as follows:

2. Discharge for misconduct. If the department finds that the individual has been discharged for misconduct in connection with the individual's employment:

a. The disqualification shall continue until the individual has worked in and has been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

...

d. For the purposes of this subsection, "misconduct" means a deliberate act or omission by an employee that constitutes a material breach of the duties and obligations arising out of the employee's contract of employment. Misconduct is limited to conduct evincing such willful or wanton disregard of an employer's interest as is found in deliberate violation or disregard of standards of behavior which the employer has the right to expect of employees, or in carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design, or to show an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. Misconduct by an individual includes but is not limited to all of the following:

...

(2) Knowing violation of a reasonable and uniformly enforced rule of an employer.

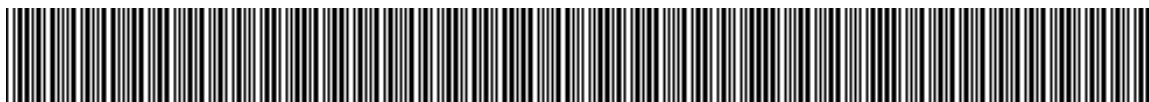
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(9) Excessive unexcused tardiness or absenteeism.

...

The employer has the burden of proof in this matter. See Iowa Code section 96.6(2). Misconduct must be substantial in order to justify a denial of unemployment benefits. Misconduct serious enough to warrant the discharge of an employee is not necessarily serious enough to warrant a denial of unemployment benefits. See *Lee v. Employment Appeal Board*, 616 N.W.2d 661 (Iowa 2000). The focus is on deliberate, intentional, or culpable acts by the employee. See *Gimbel v. Employment Appeal Board*, 489 N.W.2d 36, 39 (Iowa Ct. App. 1992).

While past acts and warnings can be used to determine the magnitude of the current act of




misconduct, a discharge for misconduct cannot be based on such past act(s). The termination of employment must be based on a current act. See 871 IAC 24.24(7). In determining whether the conduct that prompted the discharge constituted a “current act,” the administrative law judge considers the date on which the conduct came to the attention of the employer and the date on which the employer notified the claimant that the conduct subjected the claimant to possible discharge. See also *Greene v. EAB*, 426 N.W.2d 659, 662 (Iowa App. 1988).

In order for a claimant's absences to constitute misconduct that would disqualify the claimant from receiving unemployment insurance benefits, the evidence must establish that the claimant's *unexcused* absences were excessive. The determination of whether absenteeism is excessive necessarily requires consideration of past acts and warnings. However, the evidence must first establish that the most recent absence that prompted the decision to discharge the employee was unexcused. See Iowa Administrative Code rule 871-24.24(7). Absences related to issues of personal responsibility such as transportation and oversleeping are considered unexcused. On the other hand, absences related to illness are considered excused, provided the employee has complied with the employer's policy regarding notifying the employer of the absence. Tardiness is a form of absence. See *Higgins v. Iowa Department of Job Service*, 350 N.W.2d 187 (Iowa 1984). Employers may not graft on additional requirements to what is an excused absence under the law. See *Gaborit v. Employment Appeal Board*, 743 N.W.2d 554 (Iowa Ct. App. 2007). For example, an employee's failure to provide a doctor's note in connection with an absence that was due to illness properly reported to the employer will not alter the fact that such an illness would be an excused absence under the law. *Gaborit*, 743 N.W.2d at 557.

The weight of the evidence establishes a May 28, 2025 discharge for no disqualifying reason. The employer's two-hour notice requirement was unreasonable in light of the claimant's 6:00 a.m. start time, the nature of the work, and the claimant's chronic health issues. The weight of the evidence indicates that the claimant provided reasonable notice to the employer of her need to be absent due to illness in connection with each absence that factored in the discharge. The claimant is eligible for benefits, provided the claimant is otherwise eligible. The employer's account may be charged.

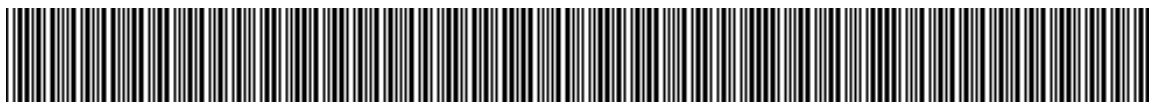
**DECISION/REMAND**

The claimant's appeal from the June 26, 2025 (mailing date) decision was timely. The decision is REVERSED. The claimant was discharged on May 28, 2025 for no disqualifying reason. The claimant is eligible for benefits, provided the claimant is otherwise eligible. The employer's account may be charged.



James TIMBERLAND  
Administrative Law Judge  
Iowa Department of Inspections, Appeals, & Licensing  
Administrative Hearings Division  
Unemployment Insurance Appeals Bureau

Please see the last page of this document for important information about reopening the appeal and further appeal rights.



## INSTRUCTIONS FOR FILING AN APPEAL

If you disagree with the decision, you or any interested party may:

1. Appeal to the Employment Appeal Board within fifteen (15) days of the date under the judge's signature by submitting a written appeal via mail, fax, or online to:

Employment Appeal Board  
6200 Park Avenue Suite 100  
Des Moines, IA 50321  
Fax: (515)281-7191  
Online: IowaWORKS account

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

AN APPEAL TO THE BOARD SHALL STATE CLEARLY:

1. A reference to the decision from which the appeal is taken.
2. That an appeal from such decision is being made and such appeal is signed.
3. The grounds upon which such appeal is based.

An Employment Appeal Board decision is final agency action. If a party disagrees with the Employment Appeal Board decision, they may then file a petition for judicial review in district court.

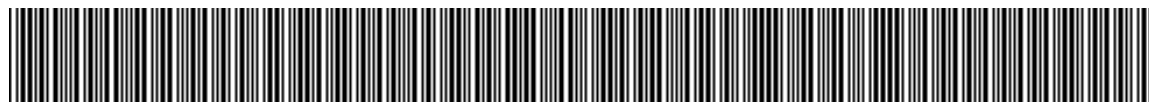
2. If no one files an appeal of the judge's decision with the Employment Appeal Board within fifteen (15) days, the decision becomes final agency action, and you have the option to file a petition for judicial review in District Court within thirty (30) days after the decision becomes final. Additional information on how to file a petition can be found at Iowa Code 17A.19, which is online at <https://www.legis.iowa.gov/docs/code/17a.19.pdf> or by contacting the District Court Clerk of Court <https://www.iowacourts.gov/iowa-courts/court-directory/>.

**Note to Parties:** YOU MAY REPRESENT yourself in the appeal or obtain a lawyer or other interested party to do so provided there is no expense to Iowa Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds.

**Note to Claimant:** It is important that you file your weekly claim as directed, while the appeal is pending, to protect your continuing right to benefits.

### SERVICE INFORMATION:

A true and correct copy of this decision was mailed to each of the parties listed.



## **Babel Notice – Claim and Appeal Information**

**Aviso:** Aviso: Documento De Beneficios Del Seguro De Desempleo  
Y Información De Apelación

### **IMPORTANT!**

This document contains important information about your unemployment compensation rights, responsibilities and/or benefits. It is critical that you understand the information in this document. **DEADLINE FOR APPEAL:** If you disagree with this determination or decision, you must file an appeal before the deadline noted in this document. **IMMEDIATELY:** If needed, call 866-239-0843 for assistance in the translation and understanding of the information in the document(s) you have received.

### **¡IMPORTANTE!**

Este documento contiene información importante sobre sus derechos, obligaciones y/o beneficios de compensación por desempleo. Es muy importante que usted entienda la información contenida en este documento. **PLAZO LÍMITE PARA APELAR:** Si usted está en desacuerdo con esta determinación o decisión, debe presentar una apelación antes del plazo límite indicado en este documento. **INMEDIATAMENTE:** Si necesita asistencia para traducir y entender la información contenida en el documento(s) que recibió, llame al 866-239-0843.

### **重要提示！**

这份文件包含有关失业补偿的权利、责任和/或利益的重要信息。您需要理解本文件中的信息，这一点至关重要。

**上诉截止日期：**如果您不同意本裁定或决定，您必须在本文件所载截止日期前提出上诉。**立即：**如果需要，请拨打866-239-0843，可获得帮助，以帮助您翻译和理解所收到的文件中的信息。

### **IMPORTANT!**

Ce document contient des informations importantes sur vos droits d'allocation de chômage, vos responsabilités et/ou vos bénéfices. Il est indispensable que vous compreniez le contenu de ce document. **DATE LIMITE POUR FAIRE APPEL:** Si vous n'êtes pas d'accord avec cette détermination ou décision, vous devrez faire un appel avant la date limite signalée dans ce document. **IMMÉDIATEMENT:** Si nécessaire, téléphonez au 866-239-0843 pour avoir de l'assistance sur la traduction et/ou la compréhension de ce document.

### **WICHTIG!**

Diese Dokument enthält wichtige Hinweise zu ihren Rechten, Pflichten bzw. Leistungen im Rahmen der Arbeitslosenunterstützung. Es ist entscheidend, dass Sie die Informationen in diesem Dokument verstehen. **FRIST ZUR BESCHWERDEEINLEGUNG:** Wenn Sie mit der Feststellung oder Entscheidung nicht einverstanden sind, müssen Sie vor Ablauf der in diesem Dokument aufgeführten Frist eine Beschwerde einlegen. **SOFORT:** Sofern erforderlich, rufen Sie die Telefonnummer 866-239-0843 an und erkundigen sich nach Hilfsdiensten bei der Übersetzung und zum Verständnis der Informationen in dem (den) von Ihnen erhaltenen Dokument(en).

### **IMPORTANTE!**

Ang mga dokumentong ito ay naglalaman ng mahalagang impormasyon tungkol sa iyong mga karapatan na makatanggap ng kabayaran, mga responsibilidad at /o benepisyo dahil sa pagkawala ng trabaho. Napakahalagang maunawaan mo ang mga impormasyong nilalaman sa dokumentong ito. **HULING ARAW PARA UMAPILA:** Kung hindi ka sumasang-ayon sa pagpapasiya o desisyon, dapat kang maghabol o magharap ng apila bago dumating ang huling araw na nabanggit sa dokumentong ito. **KAAGAD:** Kung kinakailangan ang tulong, tumawag sa 866-239-0843 para sa pagsasalin ng wika at pag-unawa ng impormasyon sa mga dokumentong natanggap mo.

### **IMPORTANTE:**

Questo documento contiene informazioni importanti sui Suoi diritti di indennizzo di disoccupazione, sulle sue responsabilità e i suoi benefit. E' cruciale che Lei comprenda appieno le informazioni contenute in questo documento. **SCADENZA PER IL RICORSO:** Se non si trova in accordo con questa determinazione o decisione, dovrà presentare ricorso prima della scadenza riportata nel presente documento. **INMEDIATAMENTE:** In caso di necessità chiami il 866-239-0843 per assistenza alla traduzione e comprensione delle informazioni contenute nei documenti ricevuti.

### QUAN TRỌNG:

Tài liệu này chứa đựng tin tức quan trọng về quyền hạn, trách nhiệm và/hoặc những lợi lộc được đền bù trong khi thất nghiệp. Đó là điều tối cần thiết mà quý vị phải hiểu rõ những tin tức trong tài liệu này. **HẠN CHÓT KHIẾU NẠI:** Nếu quý vị không đồng ý với quyết định này, quý vị phải nộp đơn khiếu nại trước hạn chót ghi rõ trong tài liệu này. **MỘT CÁCH NHANH CHÓNG:** Nếu cần xin hãy gọi số 866-239-0843 để được giúp đỡ trong việc phiên dịch và hiểu rõ những tin tức trong tài liệu quý vị đã nhận.

### 중요!

이 문서는 실업보상 권리, 책임 및/또는 혜택에 대한 중요한 정보가 포함되어 있습니다. 이 문서에 있는 정보를 이해 하는 것은 매우 중요합니다. **항소 마감:** 이 결정에 이견이 있으시면 항소인은 문서에 언급된 마감일 전에 항소를 제기하셔야 합니다. **즉시:** 받으신 문서의 번역 및 이해를 위해서 도움이 필요하시면 866-239-0843 로연락을 하시기 바랍니다.

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Dokumenty mogą zawierać ważne informacje o Pana(-i) prawach do zasiłków dla bezrobotnych, obowiązków i/lub świadczeń. Zrozumienie informacji zawartych w niniejszym dokumencie jest bardzo ważne. **DATA WYGAŚNIĘCIA TERMINU SKŁADANIA ODWOŁAŃ:** Jeśli nie zgadza się Pan(-i) z decyzją zawartą w niniejszym dokumencie, odwołanie należy złożyć przed datą wygaśnięcia terminu wyszczególnionego w treści niniejszego dokumentu. **NATYCHMIAST:** W razie potrzeby, należy dzwonić pod 866-239-0843 w celu uzyskania pomocy w tłumaczeniu i zrozumieniu informacji w dokumentach, które Pan(i) otrzymał(-a).

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Данный документ содержит важную информацию о Ваших правах на пособие по безработице, ответственностях и /или выгодах. Крайне важно, чтобы Вы поняли всю информацию, представленную в данном документе(ах). **КРАЙНИЙ СРОК ДЛЯ ОБЖАЛОВАНИЯ:** Если Вы не согласны с представленным постановлением или решением, Вы должны подать заявление на обжалование данного документа до крайнего срока, указанного в нём. **НЕМЕДЛЕННО:** При необходимости звоните 866-239-0843 для получения помощи в переводе и понимании информации данного документа(ов).

### VAŽNO!

Ovaj dokument sadrži važne informacije o vašim pravima za naknadu nezaposlenosti, odgovornostima i/ili beneficijama. Veoma je važno da shvatite informacije u ovom dokumentu. **ROK ZA ŽALBU:** Ako se ne slažete s ovim određivanjem ili odlukom, morate uložiti žalbu prije roka navedenog u ovom dokumentu. **ODMAH:** Ako je potrebno, nazovite 866-239-0843 za pomoć u prijevodu i razumijevanju informacija u dokumentu(ima) kojeg ste primili.

### ໝາາງເຫລອ ສາ

ູ່ສຳຄັນ! ເອກະສານນີ້ປະກອບດ້ວຍຂໍ້ມູນທີ່ສຳຄັນກ່ຽວກັບສິດທິການຊົດເຊີຍການຫວ່າງງານ, ຄວາມຮັບຜິດຊອບ ແລະ/ຫຼືຜົນປະໂຫຍດຂອງທ່ານ. ມັນເປັນສິ່ງ ສຳ ຄັນທີ່ທ່ານຕ້ອງເຂົ້າໃຈຂໍ້ມູນໃນເອກະສານນີ້. ກຳນົດເວລາການອຸທອນ: ຖ້າທ່ານບໍ່ເຫັນດີກັບການກຳນົດ ຫຼືການຕັດສິນໃຈນີ້, ທ່ານຕ້ອງອິ້ນອຸທອນກ່ອນກຳນົດເວລາທີ່ລະບຸໄວ້ໃນເອກະສານນີ້. ທັນທີ: ຖ້າຕ້ອງການ, ໃຫ້ໃບຫາ 866-239-0843 ສຳລັບການຊ່ວຍເຫຼືອໃນການແປ ແລະຄວາມເຂົ້າໃຈຂອງຂໍ້ມູນໃນເອກະສານທີ່ທ່ານໄດ້ຮັບ.

### هام!

تحتوي هذه الوثيقة/ الوثائق على معلومات مهمة حول حقوق تعويض البطالة ومزاياها، لذا من الأهمية فهم المعلومات الواردة فيها. وإن كنت غير موافق على ما تحمله هذه الوثيقة/ الوثائق فيجب عليك تقديم استئناف قبل الموعد النهائي المشار إليه في هذه الوثيقة والاتصال فوراً على الرقم التالي: 866-239-0843 (٨٦٦٢٣٩٠٨٤٣) وإذا كنت بحاجة إلى مساعده في ترجمة وفهم المعلومات الواردة في هذه الوثيقة فلا تردد بالسؤال.