

BEFORE THE DEPARTMENT OF LABOR AND INDUSTRY
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 24.11.463 pertaining to)
disqualification for unemployment)
insurance benefits due to failure or)
refusal of a drug test, and)
requalification)

TO: All Concerned Persons

1. On August 27, 2021, the Department of Labor and Industry (department) published MAR Notice No. 24-11-375 pertaining to the public hearing on the proposed amendment of the above-stated rule at page 1011 of the 2021 Montana Administrative Register, Issue Number 16.

2. The department held a public hearing on September 21, 2021, over the Zoom videoconference and telephonic platform at which no members of the public commented. One written comment was received during the public comment period.

3. The department has thoroughly considered the comment made. A summary of the comment and the department's response are as follows:

COMMENT 1: Chapter 576, Laws of 2021 (House Bill 701) adopted, amended, and repealed laws related to medical marijuana and medical marijuana registered cardholders. The statutes for medical marijuana registered cardholders will be codified in Title 16, chapter 12, part 5, MCA.

RESPONSE 1: The department acknowledges the comment. The department amends ARM 24.11.463 below to reflect the new citation to the applicable medical marijuana registered cardholder laws.

4. The department has amended ARM 24.11.463 with the following changes, stricken matter interlined, new matter underlined:

24.11.463 LIE DETECTOR TESTS–DRUG AND ALCOHOL TESTING

(1) remains as proposed.

(2) A claimant cannot be disqualified for benefits under this chapter solely for refusal to submit to drug or alcohol testing required by an employer or prospective employer, or on the basis of the results of such a test, unless the testing procedures fully comply with federal drug and alcohol testing statutes and regulations applicable to private sector workers, or the provisions of the Workforce Drug and Alcohol Testing Act found in Title 39, chapter 2, MCA. This rule does not apply to a drug test for marijuana or marijuana products that was administered to an individual who is a registered cardholder under ~~Title 50, chapter 46, part 3, MCA~~ Title 16, chapter 12, part 5, MCA.

(3) and (4) remain as proposed.

AUTH: 39-51-301, 39-51-302, MCA

IMP: 39-51-2302, 39-51-2303, 39-51-2304, MCA

/s/ QUINLAN L. O'CONNOR
Quinlan L. O'Connor
Alternate Rule Reviewer

/s/ LAURIE ESAU
Laurie Esau, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State October 12, 2021.