

**Claimant established that he is the parent of the minor child he is claiming for a dependency allowance, and there is no indication he is not the child's main financial support, so he is entitled to a dependency allowance under G.L. c. 151A, § 29(c).**

**Board of Review  
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**Issue ID: 0017 5957 87**

## **BOARD OF REVIEW DECISION**

### **Introduction and Procedural History of this Appeal**

The claimant appeals a decision by Rorie Brennan, a review examiner of the Department of Unemployment Assistance (DUA), to deny the claimant a dependency allowance. We review, pursuant to our authority under G.L. c. 151A, § 41, and reverse.

On April 23, 2016, the agency determined that the claimant was not entitled to a dependency allowance. The claimant appealed the determination to the DUA hearings department. Following a hearing on the merits, attended by the claimant, the review examiner affirmed the agency's initial determination in a decision rendered on September 10, 2016. We accepted the claimant's application for review.

The review examiner determined that since the claimant failed to provide the birth certificate and Social Security card of the child he intended to claim for a dependency allowance, he was not entitled to the allowance, under G.L. c. 151A, § 29(c). After considering the recorded testimony and evidence from the hearing, the review examiner's decision, and the claimant's appeal, we remanded the case to the review examiner to make subsidiary findings from the record pertaining to documentation submitted by the claimant after the hearing. Thereafter, the review examiner issued her consolidated findings of fact. Our decision is based upon our review of the entire record.

The issue on appeal is whether the review examiner's conclusion that the claimant is not entitled to a dependency allowance, under G.L. c. 151A, § 29(c), is supported by substantial and credible evidence and is free from error of law, where the claimant established the identity of and his relationship to the child he is claiming for a dependency allowance.

### **Findings of Fact**

The review examiner's consolidated findings of fact and credibility assessments are set forth below in their entirety:

1. On 12/22/15, the claimant filed a claim for unemployment benefits with an effective date of 12/20/15.
2. The claimant claimed as a dependent his son, [Child's Name] (DOB 08/09/08; SSN xxx-xx-[aaaa]).
3. On his initial claim for unemployment benefits, the claimant incorrectly stated the last four digits of his son's SSN.
4. On 04/23/16, the local office issued a Notice of Disqualification under Section 29(c) stating the claimant was not eligible to receive a dependency allowance for his son because he had failed to submit proper identification for the dependent.
5. The claimant submitted photocopies of [Child's Name]'[s] social security card (SSN xxx-xx-[aaaa]) and birth certificate (DOB 08/09/08) to the DUA.
6. The documentation submitted by the claimant confirms [Child's Name]'[s] social security number and date of birth.
7. The documentation submitted by the claimant establishes that [Child's Name] is the claimant's son.

### Ruling of the Board

In accordance with our statutory obligation, we review the examiner's decision to determine: (1) whether the consolidated findings of fact are supported by substantial and credible evidence; and (2) whether the original conclusion that the claimant is not entitled to a dependency allowance is free from error of law. Upon such review and as discussed more fully below, the Board adopts the review examiner's consolidated findings of fact. In adopting these findings, we deem them to be supported by substantial and credible evidence. We conclude that the consolidated findings support an award of the dependency allowance to the claimant.

G.L. c. 151A, § 29(c) provides, in pertinent part, as follows:

An individual in total or partial unemployment and otherwise eligible for benefits shall be paid for each week of such unemployment, in addition to the amount payable under subsections (a), (b) or (d) as the case may be, the sum of twenty-five dollars for each unemancipated child of such individual who is in fact dependent upon and is being wholly or mainly supported by such individual, and who is under the age of eighteen, or who is eighteen years of age or over and incapable of earning wages because of mental or physical incapacity, or who is under the age of twenty-four and is a full-time student at an educational institution which normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on, or who is in his custody pending the adjudication of a petition filed by such individual for the adoption of such child in

a court of competent jurisdiction, and for each such child for whom he is under a decree or order from a court of competent jurisdiction to contribute to such child's support and for whom no other person is receiving allowances hereunder; provided, that such child is domiciled within the United States or the territories or possessions thereof . . . .

Under G.L. c. 151A, § 29(c), a claimant may receive a dependency allowance of twenty-five dollars per qualified dependent. A qualified dependent is generally a child under eighteen years old who is wholly or mainly supported by the claimant. *See* Service Representative Handbook § 1652(A), (B) and (C). At issue here is whether [Child's Name] is a qualified dependent for whom the claimant may receive a dependency allowance. The claimant was initially disqualified from receipt of the dependency allowance because he did not provide the requested identification to verify the existence of [Child's Name] and his relationship to the claimant. *See* Service Representative Handbook § 1652(B), (E) and (F). We note that there is no indication in the record that the claimant was not [Child's Name]'s main financial support during the base period of the claim.

The claimant submitted to the DUA a copy of [Child's Name]'s birth certificate and Social Security card after his hearing, which was held on September 1, 2016. After remand, the review examiner found that the documentation provided by the claimant confirms [Child's Name]'s Social Security number and date of birth and establishes that he is the claimant's minor son. In light of the consolidated findings of fact and the totality of the evidence in the record before us, we conclude as a matter of law that the claimant has met all the requirements of G.L. c. 151A, § 29(c), and is entitled to a dependency allowance.

The review examiner's decision is reversed. The claimant is entitled to a dependency allowance for the week ending December 26, 2015, and for subsequent weeks if otherwise eligible.

**BOSTON, MASSACHUSETTS**  
**DATE OF DECISION – January 20, 2017**



Judith M. Neumann, Esq.  
Member



Charlene A. Stawicki, Esq.  
Member

Chairman Paul T. Fitzgerald, Esq. did not participate in this decision.

**ANY FURTHER APPEAL WOULD BE TO A MASSACHUSETTS STATE DISTRICT  
COURT OR TO THE BOSTON MUNICIPAL COURT  
(See Section 42, Chapter 151A, General Laws Enclosed)**

The last day to appeal this decision to a Massachusetts District Court is thirty days from the mail date on the first page of this decision. If that thirtieth day falls on a Saturday, Sunday, or legal holiday, the last day to appeal this decision is the business day next following the thirtieth day.

To locate the nearest Massachusetts District Court, see:  
[www.mass.gov/courts/court-info/courthouses](http://www.mass.gov/courts/court-info/courthouses)

Please be advised that fees for services rendered by an attorney or agent to a claimant in connection with an appeal to the Board of Review are not payable unless submitted to the Board of Review for approval, under G.L. c. 151A, § 37.

SVL/rh