

**Board of Review**  
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**Judith M. Neumann, Esq.**  
**Member**  
**Charlene A. Stawicki, Esq.**  
**Member**

**Issue ID: 0020 8190 09**

## **BOARD OF REVIEW DECISION**

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

The claimant appeals a decision by Rachel Zwetchkenbaum, a review examiner of the Department of Unemployment Assistance (DUA), to deny the claimant unemployment benefits. We review, pursuant to our authority under G.L. c. 151A, § 41, affirm in part, and reverse in part.

Benefits were denied after the review examiner determined that the claimant failed to meet the filing and registration requirements, under G.L. c. 151A, § 25(a). On January 27, 2017, the agency issued a Notice of Disqualification indicating that, pursuant to G.L. c. 151A, § 25(a), the claimant was ineligible for benefits for the period beginning January 8, 2017, through January 14, 2017. The claimant appealed this determination to the DUA hearings department. Following a hearing on the merits on March 30, 2017, attended by the claimant, the review examiner modified the start date of the disqualification from January 8 to January 6, 2017, and also modified the end date from January 14, 2017, to January 15, 2017, and otherwise affirmed the agency's determination to deny benefits for a two-week period. This resulted in an overpayment of \$1,324.00. We accepted the claimant's application for review. Our decision is based upon our review of the entire record, including the recorded testimony and documentary evidence in the record, the review examiner's decision, and the claimant's appeal.

The issue on appeal is whether the review examiner's conclusion that the claimant failed to meet the filing and registration requirements for a two-week period, under G.L. c. 151A, § 25(a), is supported by substantial and credible evidence and is free from error of law, where the claimant was in the United States during a majority of the week ending January 7, 2016, but not the week ending January 14, 2017.

### **Ruling of the Board**

The United States does not have a reciprocal agreement on the payment of benefits with any foreign country except Canada. *See* 430 CMR 4.00, and the DUA Service Representatives Handbook § 1616 (B). As a result, a claimant may not file benefit certifications for periods in which the claimant is outside of the United States, its territories, or its possessions. The evidence in the record establishes that the claimant traveled to Jamaica on Friday, January 7, 2017, and returned to the United States on Friday, January 13, 2017. Thus, the claimant was present in the United States for a majority of the week ending January 7, 2016, and is not disqualified for that week. *See* Board of Review decision 0018172009 (December 22, 1915) (a claimant who is in

the United States during a majority (at least 4 days) of any week in which he traveled to and certified from a foreign country other than Canada, is entitled to benefits, if otherwise eligible). The claimant is, therefore, eligible to receive benefits for the week ending January 7, 2017, but not for the week ending January 14, 2017, because he was outside of the United States for that entire week.

The review examiner's decision is affirmed in part and reversed in part. The claimant is entitled to receive benefits for the week ending January 7, 2017, if otherwise eligible; the claimant is denied benefits for the week ending January 14, 2017.

**BOSTON, MASSACHUSETTS**  
**DATE OF DECISION – April 28, 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.

SPE/rh