

**Board of Review  
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**Issue ID: 0021 9393 24**

## **BOARD OF REVIEW DECISION**

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

The claimant appeals a decision by a review examiner of the Department of Unemployment Assistance (DUA) to deny the claimant a hearing on a determination issued by the DUA on May 9, 2017. We review, pursuant to our authority under G.L. c. 151A, § 41, and affirm.

On May 9, 2017, the agency issued a determination denying the claimant a dependency allowance for a claimed dependent. The claimant appealed the determination on May 27, 2017. On August 4, 2017, the DUA issued another determination, which concluded that the claimant did not have good cause for failing to timely file his appeal of the May 9, 2017, determination. The claimant appealed the August 4, 2017, determination on September 11, 2017.<sup>1</sup> He then attended a hearing regarding the late appeals of both the May 9 and August 4, 2017, determinations.<sup>2</sup> In a decision rendered on March 15, 2018, the review examiner affirmed the agency determinations pursuant to G.L. c. 151A, § 39(b), and 430 CMR 4.14–4.15, effectively dismissing his appeals. The Board accepts the claimant’s application for review.

### **Ruling of the Board**

After considering the recorded testimony and evidence from the hearing, the review examiner’s decision, and the claimant’s appeal, we conclude that the review examiner’s findings of fact are supported by substantial and credible evidence in the record. We also conclude that the ultimate result to dismiss the claimant’s appeals is free from any error of law affecting substantive rights.

We do note that one paragraph in Part III of the review examiner’s decision is unrelated to the facts of this case. On page 3 of the decision, the review examiner stated: “As a result, it is concluded the claimant failed to justify his late request for a hearing approximately four years after the Department mailed the” August 4, 2017, notice of disqualification. This reasoning has no application here, given that the facts of this case establish that the claimant appealed the August 4, 2017, notice of disqualification on September 11, 2017. Therefore, we reject the sentence quoted above as being unsupported and irrelevant to the decision. This does not change the result of this case, however.

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<sup>1</sup> Appeals from both adverse determinations needed to be filed within ten days of the DUA issuing them. G.L. c. 151A, § 39(b).

<sup>2</sup> The hearing addressed the timeliness of his appeals. Had the appeals been accepted, then a hearing would have been held on the underlying issue regarding the dependency allowance.

The review examiner's decision is affirmed. No hearing shall be scheduled on the May 9, 2017, determination.

**BOSTON, MASSACHUSETTS**  
**DATE OF DECISION - April 9, 2018**



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**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.

SF/rh