

**Board of Review
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**Paul T. Fitzgerald, Esq.
Chairman
Charlene A. Stawicki, Esq.
Member
Michael J. Albano
Member**

Issue ID: 0023 8319 17

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 award the claimant partial benefits, which resulted in the assessment of an overpayment in the amount of \$2,057.00. We review, pursuant to our authority under G.L. c. 151A, § 41, and we affirm in part and reverse in part.

On December 20, 2017, the agency initially determined that the claimant was entitled to partial unemployment benefits between November 19, 2017 and December 30, 2017, and an overpayment was assessed. The claimant appealed, and only she attended the hearing. In a decision rendered on February 3, 2018, and pursuant to G.L. c. 151A, §§ 29(b) and 1(r)(3), the review examiner affirmed the agency determination, concluding that the claimant received remuneration and was, therefore, entitled to partial benefits only between November 19, 2017, and December 30, 2017, and the additional week ending January 6, 2018. The Board accepted 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 decision to award partial benefits is based on substantial evidence and is free from any error of law affecting substantive rights. However, we disagree with the resultant overpayment amount calculated by the agency, as it appears to be the result of an error in the implementation of the review examiner's decision. In her appeal to the Board of Review, the claimant stated that she was only appealing the overpayment amount. Upon review, we concur with the claimant's dispute of the overpayment amount.

We affirm the part of the review examiner's decision that found the claimant was entitled to partial benefits during the weeks at issue and reverse the resultant incorrect overpayment amount, as it was due to an error in the implementation of the review examiner's decision. The DUA has corrected the implementation error, and the new, correct overpayment amount has been calculated.

BOSTON, MASSACHUSETTS
DATE OF DECISION - July 30, 2018



Paul T. Fitzgerald, Esq.
Chairman



Charlene A. Stawicki, Esq.
Member

Member Michael J. Albano 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

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