

**Claimant was entitled to a dependency allowance for his son when he authenticated his dependent son's identity by submitting his son's Social Security card (and additionally, a signed hospital record of his son's birth).**

**Board of Review  
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Member  
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**Issue ID: 0024 6239 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 deny the claimant a dependency allowance. We review, pursuant to our authority under G.L. c. 151A, § 41, and reverse.

The claimant filed a claim for unemployment benefits with the DUA, with an effective date of February 4, 2018. The claimant requested a dependency allowance for his son pursuant to G.L. c. 151A, § 29(c). On June 21, 2018, the DUA issued a Notice of Disqualification, informing the claimant that he was not eligible to receive a dependency allowance for his son. 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 and denied the dependency allowance in a decision rendered on September 18, 2018. We accepted the claimant's application for review.

In her decision, the review examiner determined that the claimant had failed to submit proper identification for his dependent son, and, thus, the claimant was not eligible to receive the dependency allowance pursuant to 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 accepted the case for review. Our decision is based upon our review of the entire record.

The issue before the Board is whether the review examiner's decision, which concluded that the claimant is not eligible to receive a dependency allowance because the documents submitted by the claimant do not authenticate the dependent son's identity, is supported by substantial and credible evidence and is free from error of law, where the documentation submitted into evidence, the claimant's son's Social Security card, and a copy of his son's hospital birth record, met the DUA's identification requirements.

### **Findings of Fact**

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

1. On 02/08/18, the claimant filed a claim for unemployment benefits with an effective date of 02/04/18.
2. The claimant claimed as a dependent his son, [Name A] (DOB 10/17/17; SSN xxx-xx-[AAAA]).
3. On 02/12/18, the DUA requested the claimant submit copies of the following:
  - Dependent's Social Security Card(s) or some other documentation issued by the government that will verify your dependents' Names) and Social Security Number(s).
  - Dependent's Birth Certificate(s) or some other documentation issued by the government such as Massachusetts ID, Driver's License(s), passport(s) that will verify your dependents' Name(s) and Date(s) of Birth.
4. The claimant failed to provide proper identification to the DUA establishing his son's identity.
5. The dependent lives with the claimant and his girlfriend (the dependent's mother).
6. The claimant provides the majority financial support for the named dependent.
7. The claimant's base period wages from January, 2017, through December, 2017, were \$33,163.92.
8. On 06/21/18, 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.

### Ruling of the Board

In accordance with our statutory obligation, we review the decision made by the review examiner to determine: (1) whether the findings are supported by substantial and credible evidence; and (2) whether the review examiner's original conclusion is free from error of law. After such review, the Board adopts the review examiner's findings of fact with the exception of Finding of Fact # 4, which states that the claimant failed to provide proper identification to the DUA establishing his son's identity. That finding is contrary to the provisions of the DUA Service Representative Handbook regarding proper verification of a dependent's existence, as discussed more fully below. In adopting the remaining findings, we deem them to be supported by substantial and credible evidence. However, we believe that the review examiner's findings of fact support a conclusion that the documents submitted by the claimant satisfied the DUA requirements for proper identification of a dependent.

The claimant's eligibility for a dependency allowance is governed by G.L. c. 151A, § 29(c), which 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 . . . .

The review examiner concluded that the claimant was not entitled to a dependency allowance for his son, [Name A], 11 months old, because, although the claimant had provided a copy of his son's Social Security card, and his signed hospital birth record showing the child was born on October 17, 2017 at 9:45 a.m., the claimant did not provide a copy of his son's birth certificate.

Of relevance in this case is the DUA Service Representative Handbook, sections 1652 (E) and (F), which provides, in pertinent part:

**(E) Social Security Number Used to Verify Dependent's Existence**

A claimant must provide the Social Security number of each dependent for whom an allowance is claimed before any allowance may be paid. . . . In the event that the claimant indicates that the number can not be obtained or fails to respond with the necessary information in accordance with the specified deadline, then a disqualification will be issued.

**(F) Burden of Proof**

The burden of proof is on the claimant to produce documentation, when so requested. Documentation may be requested to verify the existence of the claimant, the claimant's relationship to the dependent, student status, whole or main support, the existence of a court order to pay support, etc.

Because the claimant produced his son's Social Security number card, as well as a signed hospital birth record verifying the claimant's relationship to the dependent, he satisfied the DUA requirements for proper identification of a dependent.

We, therefore, conclude as a matter of law that the review examiner's decision was based on an error of law, and that the claimant is entitled to a dependency allowance for his son under G.L. c. 151A, § 29(c).

The review examiner's decision is reversed. The claimant is entitled to receive a dependency allowance for his son, Future Andrew Jenkins, for the week beginning February 4, 2018, and for subsequent weeks if otherwise eligible.

**BOSTON, MASSACHUSETTS**  
**DATE OF DECISION - December 24, 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](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