

**Board of Review**  
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**Member**  
**Michael J. Albano**  
**Member**

**Issue ID: 0025 0589 50**

## **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 unemployment benefits. We review, pursuant to our authority under G.L. c. 151A, § 41, and we 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 March 31, 2018, the agency issued a Notice of Disqualification providing that, pursuant to G.L. c. 151A, § 25(a), the claimant was ineligible for benefits for the period beginning November 19, 2017 through December 9, 2017. A lost time charge was also implemented pursuant to 430 CMR 4.04(6). The claimant appealed this determination to the DUA hearings department. Following a hearing on the merits, the review examiner affirmed the agency's decision on May 26, 2018.<sup>1</sup> The claimant then appealed to this Board and we have accepted her 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 decision, which concluded that the claimant failed to meet the filing and registration requirements for a three-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 beginning November 19, 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 Representative 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 the Netherlands on Saturday, November 25, 2017, and returned to the United States on Friday, December 8, 2017. Thus, the claimant was present in the United States for a majority of the week beginning November 19, 2017, and is not

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<sup>1</sup> Although the decision was affirmed, the implementation caused a full disqualification of benefits for week beginning November 19, 2017, and did away with the lost-time charge.

disqualified for that week. *See* Board of Review Decision 0015 1720 09 (December 22, 2015) (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 November 25, 2017, but remains disqualified for the weeks ending December 2, 2017, and December 9, 2017, because she was outside of the United States for the majority of those weeks.

The review examiner's decision is affirmed in part and reversed in part. The claimant is entitled to receive benefits for the week ending November 25, 2017, if otherwise eligible. The claimant is denied benefits for the weeks ending December 2, 2017, and December 9, 2017.

**BOSTON, MASSACHUSETTS**  
**DATE OF DECISION - June 19, 2018**



Paul T. Fitzgerald, Esq.  
Chairman



Charlene A. Stawicki, Esq.  
Member



Michael J. Albano  
Member

**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.

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