

After providing proof of the claimant's relationship with her child with a copy of his birth certificate and Social Security card, the claimant is entitled to receive a dependency allowance pursuant to G.L. c. 151A, § 29(c).

**Board of Review
19 Staniford St., 4th Floor
Boston, MA 02114
Phone: 617-626-6400
Fax: 617-727-5874**

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

Issue ID: 0027 4975 64

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 October 14, 2018, and requested a dependency allowance pursuant to G.L. c. 151A, § 29(c). On November 7, 2018, the DUA issued a Notice of Disqualification informing the claimant that she was not eligible to receive a dependency allowance. 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 December 25, 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 her 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 remanded the case to the review examiner to afford the claimant an opportunity to produce proper identification of her child. The claimant attended the remand hearing. Thereafter, the review examiner issued her consolidated findings of fact. Our decision is based upon our review of the entire record.

The issue before the Board is whether the review examiner's original decision, which concluded that the claimant is not eligible to receive a dependency allowance for her son because she failed to produce proper identification for him, is supported by substantial and credible evidence and is free from error of law, where the record now contains the claimant's son's Social Security card and a copy of his hospital birth certificate.

Findings of Fact

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

1. The claimant is the biological mother with a child with the following date of birth: March 30, 2017 (Exhibit 1).
2. The child lives with the claimant and the claimant's husband, the child's biological father, in [City A], Massachusetts.
3. The claimant has an unemployment insurance benefits claim effective the week beginning October 14, 2018 (Exhibit 1).
4. The claimant and her husband both provide financial support for the child.
5. During the last 15 months, the claimant has provided more than 50% of the financial support for the child.
6. The claimant erroneously responded 'no' to the following question when initially requesting the Department of Unemployment Assistance (hereinafter the Department) a dependency allowance for the child: "During the last 15 months did you or do you now pay more than 50% of the support for this child (Exhibit 2)?" The claimant mistakenly thought this question was about child support.
7. The Department received a social security discrepancy with regards to the child after the claimant data entered information on the Department's database regarding the child.
8. The claimant did not have the child's social security card available when she initially entered information about the child on the Department's database. The claimant received the social security number for the child from her mother-in-law over the telephone.
9. On November 7, 2018, the Department issued a Notice of Disqualification denying the claimant's request for a dependency allowance under Section 29(c) of the Law for the child beginning October 14, 2018 (Exhibit 3). On the Notice of Disqualification, the Department wrote: "You are not eligible to receive a dependency allowance because you have failed to presented proper identification for your dependent (Exhibit 3).
10. The claimant appealed the Notice of Disqualification (Exhibit 4).
11. The claimant has now submitted copies of the child's birth certificate and social security card to the Department for verification (Remand Exhibits 5-7). This documentation, the birth certificate and social security card copies, establish her minor child's name, date of birth and social security number.

Ruling of the Board

In accordance with our statutory obligation, we review the decision made by the review examiner and determine: (1) whether the consolidated 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 consolidated findings of fact and deem them to be supported by substantial and credible evidence. We further believe that these findings now support a conclusion that the claimant is entitled to a dependency allowance.

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

The review examiner originally concluded that the claimant was not entitled to a dependency allowance for her son, because the claimant failed to provide proper identification for the child. Proper identification includes a valid Social Security number and documentation verifying the claimant's relationship to the child. *See* DUA Service Representative Handbook, § 1652(E) and (F).

After remand, the claimant has now provided her son's birth certificate (Remand Exhibit 6) and his Social Security card (Remand Exhibit 7). Consolidated Finding # 11 confirms the validity of these documents. Because the claimant has verified her relationship to the claimed dependent, we conclude as a matter of law that the claimant is entitled to a dependency allowance pursuant to G.L. c. 151A, § 29(c).

The review examiner's decision is reversed. The claimant is entitled to receive a dependency allowance for her son, [Child's Name], for the week beginning October 14, 2018, and for subsequent weeks if otherwise eligible.



Charlene A. Stawicki, Esq.
Member

BOSTON, MASSACHUSETTS
DATE OF DECISION – March 28, 2019



Michael J. Albano
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

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.

AB/rh