

The DUA's electronic record-keeping system, UI Online, shows that the claimant earned gross wages of \$21,140 during the last two quarters of his benefit year. As such, he is monetarily eligible for benefits.

**Board of Review**  
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**Issue ID: 0061 2219 82**

### Introduction and Procedural History of this Appeal

The claimant appeals a decision by a review examiner of the Department of Unemployment Assistance (DUA), which concluded that the claimant was not eligible to receive benefits on an unemployment claim effective November 25, 2020. We review, pursuant to our authority under G.L. c. 151A, § 41, and reverse.

The claimant separated from his position with the employer on November 5, 2020. He filed a claim for unemployment benefits with the DUA, which was denied in a determination issued on December 21, 2020. 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 benefits in a decision rendered on March 25, 2021. We accepted the claimant's application for review.

Benefits were denied after the review examiner determined that the claimant did not provide sufficient evidence to verify his base period wages and, thus, was monetarily ineligible under G.L. c. 151A, § 24(a). Our decision is based upon our review of the entire record, including the recorded testimony and evidence from the hearing, the review examiner's decision, and the claimant's appeal.

The issue before the Board is whether the review examiner's decision, which concluded that the claimant was not monetarily eligible for benefits because he failed to provide evidence of his gross earnings from his most recent base period employer, is supported by substantial and credible evidence and is free from error of law.

### Findings of Fact

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

1. The claimant filed an unemployment insurance claim on 11/25/20 and obtained an effective date of his claim of 11/22/20.
2. The base period of the above claim is from 10/1/19 to 9/30/20.

3. The claimant has two base period employers, employer “M” and a Georgia employer.
4. The claimant worked for the Georgia employer from 8/3/15 to 11/19/19.
5. The claimant worked for employer “M” from 6/19/20 to 11/5/20.
6. The claimant earned \$4,630.63 working for the Georgia employer from 4/1/19 to 6/30/19.
7. The claimant provided documentation to show that he received weekly pay from “M”, via direct deposit, from 7/31/20 to 11/6/20. This documentation shows the claimant’s net weekly pay.
8. The record was held open to allow the claimant to provide proof of his gross wages from “M” from 10/1/19 to 9/30/20 and/or the alternate base period. The claimant did not provide proof of gross wages from “M” from 10/1/19 to 9/30/20 and/or the alternate base period.

#### Ruling of the Board

In accordance with our statutory obligation, we review the record and 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. Upon such review, the Board adopts the review examiner’s findings of fact and deems them to be supported by substantial and credible evidence. However, as discussed more fully below, we reject the review examiner’s legal conclusion that the claimant did not have sufficient base period wages to establish monetary eligibility for benefits.

In order to be eligible for unemployment benefits, the claimant must have earned sufficient wages in accordance with G.L. c. 151A, § 24, which provides, in pertinent part, as follows:

An individual, in order to be eligible for benefits under this chapter, shall—

- (a) Have been paid wages in the base period amounting to at least thirty times the weekly benefit rate; provided, however, that for the period beginning on January first, nineteen hundred and ninety-five the individual has been paid wages of at least two thousand dollars during said base period; provided, further, that said amount shall be increased annually proportionately, rounding to the nearest one hundred dollars, to any increases which have occurred during the prior calendar year in the minimum wage. . . .

Pursuant to G.L. c. 151A, § 24(a), at the time the claimant filed his claim, he must have been paid wages of at least \$5,100.00<sup>1</sup> and have been paid wages of at least thirty times his weekly benefit rate during his base period.

While the claimant failed to submit documentary evidence of his gross base period wages following completion of the hearing, a review of his UI Online profile shows the DUA has verified that the claimant earned gross wages totaling \$21,140 during the last two quarters of his base period. Therefore, agency records show that the claimant has earned more than \$5,100 and at least thirty times his benefit rate during his base period.

The review examiner's decision is reversed. The revised wages verified by the DUA shall be used to calculate the claimant's benefit rate and benefit credit.

**BOSTON, MASSACHUSETTS**  
**DATE OF DECISION - June 25, 2021**



Charlene A. Stawicki, Esq.  
Member



Michael J. Albano  
Member

Chairman Paul T. Fitzgerald, Esq. did not participate in this decision.

If this decision disqualifies the claimant from receiving regular unemployment benefits, the claimant may be eligible to apply for Pandemic Unemployment Benefits (PUA). The claimant may apply at: <https://ui-cares-act.mass.gov/PUA/>. The claimant may also call customer assistance at 877-626-6800 (select the number for your preferred language, then press # 2 for PUA).

**ANY FURTHER APPEAL WOULD BE TO A MASSACHUSETTS  
STATE DISTRICT 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)

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<sup>1</sup> G.L. c. 151A, § 24(a), states that a claimant must have earned \$2,000.00 in the base period. However, this amount has been changed, as required under the statute, based on changes to the minimum wage. The minimum amount of wages necessary to meet the monetary threshold at the time the claimant filed her unemployment claim was \$5,100.00.

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.

LSW/rh