

**Where the claimant tried to certify each week, but the DUA's UI Online computer system would not permit him to complete his certification, and staff entries confirm his testimony that he called DUA for assistance on multiple occasions, held the claimant had good cause for his failure to certify in a timely manner pursuant to G.L. c. 151A, § 25(a).**

**Board of Review  
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Member  
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**Issue ID: 0069 0992 59**

### 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 an opportunity to retroactively claim unemployment benefits. We review, pursuant to our authority under G.L. c. 151A, § 41, and reverse.

The claimant separated from employment and re-opened his 2019-01 claim for unemployment benefits with the DUA, which was approved. He successfully certified for, and collected, benefits for several weeks. Subsequently, he asked the DUA to allow him to submit late certifications for the period from February 7 through April 17, 2021. The DUA denied his request in a determination issued on November 16, 2021. The claimant appealed the determination to the DUA hearings department. Following a hearing on the merits, the review examiner affirmed the agency's initial determination, denying the claimant the opportunity to file a late certification for benefits, in a decision rendered on September 15, 2022. We accepted the claimant's application for review.

The review examiner concluded that the claimant did not have good cause for his failure to timely certify for benefits, as required under G.L. c. 151A, § 25(a). Our decision is based upon a 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 did not have good cause for his failure to timely certify for benefits because he had previous experience filing unemployment claims, 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 a claim for unemployment benefits with an effective date of January 10, 2021 [sic].
2. The claimant has previous unemployment claims.

3. The claimant requested that communications from DUA to him be sent electronically.
4. The claimant was aware that he had to request benefits on a weekly basis and in a timely manner.
5. The claimant was having difficulty with his internet access during the week beginning February 7, [2021] through the week ending April 17, [2021].
6. On May 12, 2021, the claimant requested that the week beginning February 7, 2021 through the week ending April 17, 2021 be available for him to certify late.
7. On November 16, 2021, the DUA sent the claimant a Notice of Disqualification advising him that his claim for benefits for the period from February 7, 2021 through April 17, 2021 was disqualified because he failed, without good cause, to file his claim in a timely manner.

### 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 conclusion is free from error of law. After such review, the Board adopts the review examiner's findings of fact except as follows. The effective date in Finding of Fact # 1 is incorrect, as the DUA's electronic record-keeping system, UI Online, shows that the weeks at issue pertained to his 2019-01 claim, effective April 14, 2019. We reject the portion of Finding of Fact # 5, which characterizes the claimant's difficulty during the period from February 7, 2021, through April 17, 2021, as being due to internet access. This is not supported by the record, as explained below. In adopting the remaining findings, we deem them to be supported by substantial and credible evidence. However, we disagree with the review examiner's legal conclusion that the claimant did not show good cause to be allowed a late certification for benefits.

G.L. c. 151A, § 25(a), provides, in relevant part, as follows:

No waiting period shall be allowed and no benefits shall be paid to an individual under this chapter for—(a) Any week in which he fails without good cause to comply with the registration and filing requirements of the commissioner. The commissioner shall furnish copies of such requirements to each employer, who shall notify his employees of the terms thereof when they become unemployed.

The DUA generally allows up to three weeks to certify for benefits and a claimant may be ineligible for those benefits if he fails to do so within that time period. *See* 430 CMR 4.01(5)(d) and (e), and 4.04(1). DUA regulations also provide for an exception for late certification, if the claimant can prove to the satisfaction of the DUA that he had good cause for failing to certify in a timely manner. *See* 430 CMR 4.04(2).

During the hearing, the claimant explained that, when he re-opened his claim, he was able to successfully certify for several weeks, but then the UI Online system would not allow him to complete his weekly certifications. He testified that he kept calling the DUA, the agents confirmed that UI Online was not permitting him to certify, but that they were unable to help him.<sup>1</sup>

A review examiner is not required to believe self-serving, unsupported evidence, even if it is uncontroverted by other evidence. McDonald v. Dir. of Division of Employment Security, 396 Mass. 468, 470 (1986). However, in this case, Finding of Fact # 5 suggests that the review examiner misunderstood the claimant's testimony. Nothing in the record indicates that internet access was preventing the claimant from certifying for the weeks at issue. Rather, his testimony suggests that he was able to access UI Online, but a system glitch prevented him from completing his weekly certifications.

Staff notes in UI Online tend to confirm the claimant's sworn testimony. Note entries in UI Online show that the claimant called about problems with his claim on February 8, 2021, March 2, 2021, April 28, 2021, and twice on May 12, 2021. One of the May 12, 2021, notes indicates that the weeks from February 7 through May 2, 2021, were made requestable, which suggests that the reason for his calls were related to not being able to certify for those weeks.

In Board of Review Decision 0023 4469 28 (Dec. 24, 2018), we held that the claimant had good cause for his failure to timely certify for benefits, where the DUA's UI Online computer system did not make those weeks available for certification. Here, it appears that the claimant confronted a similar problem. Because he was improperly denied the opportunity to certify for the weeks at issue, he had good cause for his failure to certify in a timely manner.

We, therefore, conclude as a matter of law that the claimant demonstrated good cause for his failure to comply with the DUA's registration and filing requirements within the meaning of G.L. c. 151A, § 25(a).

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<sup>1</sup> We have supplemented the findings of fact, as necessary, with the unchallenged evidence before the review examiner. See Bleich v. Maimonides School, 447 Mass. 38, 40 (2006); Allen of Michigan, Inc. v. Deputy Dir. of Department of Employment and Training, 64 Mass. App. Ct. 370, 371 (2005).

The review examiner's decision is reversed. The claimant is not disqualified from receiving benefits, pursuant to G.L. c. 151A, § 25(a), for the period February 7, 2021, through April 17, 2021, provided he is otherwise eligible.

**BOSTON, MASSACHUSETTS**  
**DATE OF DECISION - August 29, 2023**



Charlene A. Stawicki, Esq.  
Member



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  
(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.

AB/rh