

**Claimant, whose workload for employer rehabilitation and skilled nursing facility increased substantially when the COVID-19 pandemic subsided, quit for urgent, compelling, and necessitous reasons because the increased workload exacerbated her diagnoses of anxiety and depression. As her medical provider had recommended that continuing in her job would be detrimental to her health and well-being, further efforts to preserve would have been futile. Held claimant is eligible for benefits pursuant to G.L. c. 151A, § 25(e)(1).**

**Board of Review  
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**Issue ID: 0073 0593 22**

### Introduction and Procedural History of this Appeal

The employer appeals a decision by a review examiner of the Department of Unemployment Assistance (DUA) to award unemployment benefits. We review, pursuant to our authority under G.L. c. 151A, § 41, and affirm.

The claimant resigned from her position with the employer on August 4, 2021. She filed a claim for unemployment benefits with the DUA, which was denied in a determination issued on October 19, 2021. The claimant appealed the determination to the DUA hearings department. Following a hearing on the merits, attended by both parties on the first day but only by the claimant on the second day, the review examiner overturned the agency's initial determination and awarded benefits in a decision rendered on February 26, 2022. We accepted the employer's application for review.

Benefits were awarded after the review examiner determined that the claimant voluntarily left employment for good cause attributable to the employer and, thus, was entitled to benefits under G.L. c. 151A, § 25(e)(1). After considering the recorded testimony and evidence from the hearing, the review examiner's decision, and the employer's appeal, we remanded the case to the review examiner to take additional evidence and to allow the employer to provide testimony and evidence. Both parties attended the remand hearing. Thereafter, the review examiner issued her consolidated findings of fact and credibility assessment. 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's decision to quit because of an increased workload constituted good cause attributable to the employer for quitting, is supported by substantial and credible evidence and is free from error of law.

### Findings of Fact

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

1. Approximately ten years ago, the claimant was diagnosed with depression and anxiety. The claimant had been hospitalized in the past for reasons related to her mental health.
2. The claimant worked full-time as the Director of Social Services for the employer, a rehabilitation and skilled nursing center, from 5/21/2018 until 9/17/2021.
3. The claimant's supervisor was the administrator (the Administrator).
4. When the claimant was hired, she was hired by Administrator 1. She told Administrator 1 she was a social worker, not an administrator and she was not a case manager. Administrator 1 told her to run her department how she saw fit.
5. The claimant focused her work on providing care to the employer's residents and addressing the concerns of the residents' families.
6. The claimant was responsible for admitting new residents.
7. As part of the claimant's job duties, if not done prior to admission to the employer's facility, the claimant completed PASSR screens of residents to find any mental illness or development delay and notified the correct department if any were found. Her job duties included 48-hour care plans called baseline care plans, scheduling meetings, creating a trauma assessment schedule, following up with discharge plans, coordinating with families upon discharge and ensuring other departments completed their paperwork. The claimant handled complaints made by families of residents.
8. On unknown dates in 3/2021, the claimant took a leave of absence for medical reasons.
9. As of 5/1/2021, there were 80 residents onsite at the employer's facility.
10. In 5/2021, the employer admitted 31 residents into its facility.
11. On unknown dates in 5/2021, the claimant took a leave of absence for medical reasons.
12. As of 5/31/2021, the employer had 84 residents onsite at its facility.
13. As of 6/1/2021, the employer had 84 residents onsite at its facility.
14. In 6/2021, the employer admitted 22 residents into its facility.

15. On unknown dates in 6/2021, the claimant took a week vacation.
16. On 6/16/2021, Administrator 1 left the employer and Administrator 2 began supervising the claimant.
17. On the first day Administrator 2 began supervising the claimant, the claimant informed her that she felt overwhelmed with her job duties. The claimant told Administrator 2 that she did not “do well with change” upon her taking over for Administrator 1. Administrator 2 asked the claimant to “give her a chance.”
18. Throughout the claimant’s employment, including after Administrator 2 becoming the claimant’s supervisor, she visited her primary care physician, counselor and addiction specialist every few weeks. The claimant’s primary care physician asked if she thought of taking a medical leave and responded that she believed the stressful workload would not change, and she would return to the same things.
19. As of 6/30/2021, the employer had 76 residents in its facility.
20. As of 7/1/2021, the employer had 76 residents in its facility.
21. In 7/2021, the employer admitted 37 residents into its facility.
22. In 7/2021, the claimant spoke with Administrator 2, informed her that it was getting busy and she requested Administrator 2 hire a case manager to assist her. Administrator 2 told the claimant she was not going to hire a case manager, could get her help and she would help the claimant with whatever she needed help with. She told the claimant she would bring on a social worker to assist her.
23. Administrator 2 did not hire a case manager because as a nursing home, the employer did not hire case managers.
24. Administrator 2 told the claimant she would speak with a corporate social worker to obtain assistance for the claimant.
25. The admissions increased in the summer of 2021 due to places reopening during the COVID-19 pandemic.
26. The claimant’s workload increased when the employer’s admissions increased.
27. On multiple occasions, the claimant worked 12 hours a day to complete her work.
28. The claimant had a difficult time completing her work when the admissions increased.

29. When the admissions increased, complaints about nurses and about care from residents and their families increased.
30. The claimant believed her stress and anxiety increased in 7/2021 because of the increase in her workload. The claimant began having difficulty sleeping and began crying nearly every day.
31. On an unknown date in 7/2021, the claimant was offered a leave of absence by the employer's human resources representative. The claimant did not accept the leave of absence from work because she did not believe it would help as she would return to the same workload.
32. On an unknown date in 7/2021, Administrator 2 brought a social worker (the "SW") from a sister location to assist the claimant.
33. The claimant was informed of the addition of SW in a staff meeting.
34. The claimant was unhappy SW was brought in to assist her because she was brought in on Thursdays, which was the day the claimant met with the psychiatric nurse and the claimant believed she needed to train the SW.
35. The claimant and SW did not get along based on working together in the past.
36. As of 7/31/2021, the employer had 82 residents in its facility.
37. As of 8/1/2021, the employer had 82 residents in its facility.
38. In 8/2021, the employer admitted 26 residents into its facility.
39. As of 8/31/2021, the employer had 83 residents in its facility.
40. On 8/4/2021, the claimant met with Administrator 2 and SW after the claimant told Administrator 2 she felt overwhelmed. The claimant believed the meeting was going to be an opportunity to discuss her receiving support for the increased workload. During the meeting, the claimant felt Administrator 2 "nit-picked" her for failing to check boxes on the employer's 48 hour plans. Administrator 2 spoke with the claimant about her completion of the 48 hour plans because they were required to be completed by the Department of Public Health. Administrator 2 told the claimant she felt the claimant had her foot out the door and was not dedicated to her job. The claimant responded to the Administrator 2 telling her that her workload had increased and worked 12 hour days to complete her work.
41. The claimant was not completing the 48 hour care plans because she felt they were cumbersome and she could not complete her other duties while completing the forms.

42. During the meeting, SW yelled at the claimant out of frustration.
43. On 8/4/2021, the claimant provided her notice that she quit her job because of ongoing issues with an increase of admissions and discharges and because she felt she was unable to attain what she believed were unclear expectations. She gave her intended last day as 9/17/2021.
44. The claimant gave a six week notice because she loved her job and wanted to ensure her duties were completed prior to leaving.
45. On 8/12/2021, the claimant's doctor provided her with a letter stating that for several months, the claimant had struggled with anxiety related to her work, as she was the Director of Social Services and the only staff social worker for the employer. It stated that she had managed multiple complicated end of life cases throughout the COVID-19 pandemic, and carried a large case load and the demand of her position took a toll on her mental health. The letter stated, "At this time continuing in this role will continue to impact her mental health. At this time I have recommended time off from this work and furthermore continuing in this position would be detrimental to her overall health and well-being."
46. On an unknown date, the claimant provided the employer with the 8/12/2021 letter from her doctor.
47. On 9/17/2021, the claimant quit her employment.

#### Credibility Assessment:

Both parties agreed that the employer's admissions increased in 7/2021 and 8/2021, which in turn increased the claimant's job duties. Administrator 2 also corroborated the claimant's testimony that she took a leave of absence in 5/2021. Both parties further testified that the claimant informed Administrator 2 she felt overwhelmed and requested assistance on multiple occasions.

Although Administrator 2 testified that the claimant resisted working with SW, she further admitted she was aware they did not get along and that SW raised her voice speaking with the claimant in the meeting on 8/4/2021. Further, even though the claimant did not provide direct testimony as to whom she gave the 8/12/2021 doctor's note, Administrator 2 testified that she saw the letter.

Even though the claimant did not request an additional leave of absence prior to quitting, her failure to do so was reasonable given that she would return to the same overwhelming workload.

Based on the claimant's consistent testimony over both the original and remand hearings, which was also corroborated by Administrator 2, the totality of the

claimant's testimony outweighs the employer's testimony. Therefore, the claimant is deemed more credible.

### Ruling of the Board

In accordance with our statutory obligation, we review the decision made by the review examiner to 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. Upon such review, the Board adopts the review examiner's consolidated findings of fact and deems them to be supported by substantial and credible evidence. We further believe that the review examiner's credibility assessment is reasonable in relation to the evidence presented, although her characterization of the claimant's failure to request another leave of absence as "reasonable" is a conclusion of law and thus not properly part of a determination of the parties' relative credibility. Further, as discussed more fully below, while we believe that the review examiner's consolidated findings of fact support a conclusion that the claimant is entitled to unemployment benefits, we affirm the award of benefits under a different provision of the law.

Because the claimant voluntarily separated from her position with the employer, her eligibility for benefits is properly analyzed pursuant to the following provisions under G.L. c. 151A, § 25(e), which state as follows:

[No waiting period shall be allowed and no benefits shall be paid to an individual under this chapter] . . . (e) For the period of unemployment next ensuing . . . after the individual has left work (1) voluntarily unless the employee establishes by substantial and credible evidence that he had good cause for leaving attributable to the employing unit or its agent . . . [or] if such individual established to the satisfaction of the commissioner that his reasons for leaving were for such an urgent, compelling and necessitous nature as to make his separation involuntary.

These statutory provisions expressly assign the burden of proof to the claimant. The review examiner initially concluded that the claimant was entitled to benefits, because she established good cause attributable to the employer for quitting and that further attempts to preserve her job would have been futile. After remand, we conclude that the evidence before us establishes that the claimant quit for urgent, compelling, and necessitous reasons.

The review examiner found that the claimant has been diagnosed with depression and anxiety for approximately ten years, and that she has been hospitalized in the past for reasons related to her mental health. *See Consolidated Finding # 1.* Throughout her tenure with this employer, the claimant met with her primary care physician, her counselor, and an additional specialist every few weeks. *See Consolidated Finding # 18.*

During the summer of 2021, the employer's admissions increased due to businesses reopening following the COVID-19 pandemic. The claimant's own workload increased when admissions increased, along with increases in complaints about nurses and about care from residents and their families, which the claimant also fielded. As the claimant's workload increased, she found herself working 12-hour days to complete her job duties. When the claimant's stress and anxiety increased

with her workload in July of 2021, she began having difficulty sleeping, and cried nearly every day. *See Consolidated Findings ## 2 – 30.*

At the same time the claimant’s workload increased in the summer of 2021, her former supervisor left the employer and a new administrator became her supervisor in June. The claimant told the administrator that she felt overwhelmed by her job duties when they met in June and asked her to hire a case manager to help with her workload in July. The new administrator said she could not hire a case manager but said she would bring in a social worker to help the claimant. *See Consolidated Findings ## 16–17, and 22.*

In July of 2021, the new administrator brought a social worker from another of the employer’s facilities to help the claimant one day a week. The claimant found out about the social worker at a general staff meeting and was unhappy that the social worker was scheduled to come in on Thursdays, because the claimant needed to train the social worker and that was the day that she met with the psychiatric nurse. The review examiner also found that the claimant and the social worker had a past history of not getting along with each other. *See Consolidated Findings ## 32–35.*

On August 4, 2021, the claimant met with the new administrator and the part-time social worker, believing that the meeting would be to discuss support for her increased workload. Instead, the administrator criticized the claimant for failing to adequately complete required documentation, and the social worker yelled at the claimant out of frustration. *See Consolidated Findings ## 40–42.* After the meeting that day, the claimant submitted a letter of resignation, citing various work-related reasons for quitting and indicating that her last day would be September 17, 2021. *See Consolidated Finding # 43 and Exhibit # 2.*

Shortly after resigning on August 4, 2021, the claimant forwarded a letter from her medical provider, confirming that the claimant was “struggling with anxiety” for “the past several months,” her job “has taken a toll on her mental and emotional health” and “continuing in this role will continue to impact her mental health,” and concluding, “At this time, I have recommended time off from this work and furthermore continuing in this position would be a detriment to her overall health and well-being.” *See Consolidated Findings ## 45–46 and Exhibit # 3.* The claimant last worked for the employer on September 17, 2021. *See Consolidated Finding # 47.*

“[A] ‘wide variety of personal circumstances’ have been recognized as constituting ‘urgent, compelling and necessitous’ reasons under” G.L. c. 151A, § 25(e), “which may render involuntary a claimant’s departure from work.” Norfolk County Retirement System v. Dir. of Department of Labor and Workforce Development, 66 Mass. App. Ct. 759, 765 (2009), *quoting* Reep v. Comm’r of Department of Employment and Training, 412 Mass. 845, 847 (1992). Medical conditions are recognized as one such reason. *See Dohoney v. Dir. of Division of Employment Security*, 377 Mass. 333, 335–336 (1979) (pregnancy or a pregnancy-related disability, not unlike other disabilities, may legitimately require involuntary departure from work). Given the claimant’s documented medical condition of depression and anxiety and the fact that her medical provider corroborated that her symptoms were directly connected to working under prolonged, difficult, and stressful conditions, we conclude that the claimant has met her burden to show that she had urgent, compelling, and necessitous reasons to leave.

However, our inquiry does not stop here. “Prominent among the factors that will often figure in the mix when the agency determines whether a claimant’s personal reasons for leaving a job are so compelling as to make the departure involuntary is whether the claimant had taken such ‘reasonable means to preserve her employment’ as would indicate the claimant’s ‘desire and willingness to continue her employment.’” Norfolk County Retirement System, 66 Mass. App. Ct. at 766, *quoting Raytheon Co. v. Dir. of Division of Employment Security*, 364 Mass. 593, 597–98 (1974).

We note that, to be eligible for benefits, a claimant is expected to make reasonable attempts to preserve her employment. However, she is not required to request a transfer to other work or a leave of absence. Guarino v. Dir. of Division of Employment Security, 393 Mass. 89, 94 (1984).

The review examiner found that the claimant declined the employer’s suggestion of a leave of absence in July of 2021, because such a leave would not have remedied the problem, since she would have had to return to the same difficult workload at the end of that leave. *See Consolidated Finding # 31*. Also, as noted above, the claimant’s medical provider confirmed that continuing to work in her job for the employer “will continue to impact her mental health,” and the provider had advised the claimant to take “time off from this work,” because continuing in her position “would be a detriment to her overall health and well-being.” *See Consolidated Finding # 45 and Exhibit # 3*. In short, the record shows that further efforts to preserve her job at the time the claimant quit would have been futile due to the effect of her workload on her medical conditions.

We, therefore, conclude as a matter of law that the claimant has met her burden to show that she involuntarily resigned from the employer due to urgent, compelling, and necessitous circumstances, and she is eligible for benefits pursuant to G.L. c. 151A, § 25(e)(1).

The review examiner’s decision is affirmed. The claimant is entitled to receive benefits for the week ending September 18, 2021, and for subsequent weeks, if otherwise eligible.

**BOSTON, MASSACHUSETTS**  
**DATE OF DECISION - December 22, 2023**



Paul T. Fitzgerald, Esq.  
Chairman



Michael J. Albano  
Member

Member Charlene A. Stawicki, 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.

JPCA/rh