

Claimant established that she is the parent of the minor child she is claiming for a dependency allowance, where the DUA has previously determined that she was entitled to a dependency allowance for this child and he is currently attending a GED program. She is, therefore, entitled to a dependency allowance under G.L. c. 151A, § 29(c).

**Board of Review
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Issue ID: 0075 7182 70

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.

On August 16, 2022, the agency determined that the claimant was not entitled to 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 in a decision rendered on November 26, 2022. We accepted the claimant's application for review.

The review examiner concluded that the claimant failed to provide adequate documentation to establish that she was the parent of the dependent child and, therefore, was not entitled to a dependency allowance under G.L. c. 151A, § 29(c). 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, as well as information available in the DUA's UI Online electronic record-keeping database.

The issue before the Board is whether the review examiner's decision, which concluded that claimant is not entitled to a dependency allowance because she failed to provide documentation confirming that she had legally changed her name since her son was born, 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 and the Department of Unemployment Assistance (DUA) determined the effective date of 10/2/2022 [sic].
2. The claimant claimed a dependency allowance for the child, [dependant] ("the child") [sic] his date of birth is 10/10/1999.

3. The child is studying for the General Educational Development (GED) exam.
4. The child's birth certificate issued by the Commonwealth of Massachusetts does not have the claimant as a parent.
5. The child lives with the claimant.
6. In the last 15 months, the claimant has provided more than 50% of the financial support for the child.
7. On 8/16/2022, the DUA issued the claimant a Notice of Disqualification notifying her she is not eligible to receive [a] dependency allowance for the child because she does not satisfy the requirements of the Law and [is] not entitled to receive [a] dependency allowance beginning 1/30/2022 through 1/28/2023.

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 Finding of Fact # 4, as discussed below. In adopting the remaining findings, we deem 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 is not entitled to a dependency allowance for her son.

G.L. c. 151A, § 29(c), 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, or who is eighteen years of age or over and incapable of earning wages because of mental or physical incapacity, or who is under the age of twenty-four and is a full-time student at an educational institution which normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on, or who is in his custody pending the adjudication of a petition filed by such individual for the adoption of such child in a court of competent jurisdiction, and for each such child for whom he is under a decree or order from a court of competent jurisdiction to contribute to such child's support and for whom no other person is receiving allowances hereunder; provided, that such child is domiciled within the United States or the territories or possessions thereof

Under G.L. c. 151A, § 29(c), a claimant may receive a dependency allowance of twenty-five dollars per qualified dependent. The claimant was initially disqualified from receiving the dependency allowance, because she did not provide the requested identification to verify that she is the parent of the child as listed on his birth certificate.

The claimant initially submitted a copy of her child's birth certificate to the DUA. *See* Exhibit # 10. However, the review examiner properly observed that the claimant's current name of record is not one of the names listed on that birth certificate and issued a finding accordingly. *See* Finding of Fact # 4. Although the review examiner gave the claimant an opportunity to provide documentation verifying that she had legally changed her name since she gave birth to her son, the claimant did not produce that documentation.

We note that information available in the DUA's UI Online electronic database shows that, in addition to the instant claim that was effective on January 30, 2022, the claimant has filed claims that were effective on January 26, 2020, and on June 18, 2023. We further note that the DUA approved the claimant for a dependency allowance for the child at issue here on both her 2020 and 2023 claims for benefits. Where the agency has previously concluded that the claimant was eligible for a dependency allowance for this child — and the review examiner found that this child is enrolled in school for his GED exam — we defer to the agency's prior determinations that the claimant is the birth parent of this dependent child.¹

We, therefore, conclude as a matter of law that the claimant has met all of the requirements of G.L. c. 151A, § 29(c), and is entitled to a dependency allowance for this child.

The review examiner's decision is reversed. The claimant is entitled to a dependency allowance for this child beginning the week of January 30, 2022, and for subsequent weeks, if otherwise eligible.



Paul T. Fitzgerald, Esq.
Chairman

BOSTON, MASSACHUSETTS
DATE OF DECISION - March 28, 2024

¹ Although the Board does not rely on it in reaching our conclusion, we also note that, with her appeal to the Board, the claimant submitted a copy of a document from the Register of Probate and Family Court in Suffolk County showing that, on March 22, 2013, the Trial Court officially changed the claimant's name from the name on the child's birth certificate to the name she has used for her claims for unemployment assistance with the DUA.



Charlene A. Stawicki, Esq.
Member

Member Michael J. Albano 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

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