

Claimant's inability to schedule her RESEA seminar through the provided link and her good faith effort to get help was good cause for missing the deadline. She may not be disqualified pursuant to G.L. c. 151A, § 25(a).

**Board of Review
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Issue ID: 0078 0847 45

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 unemployment benefits for the week of August 14, 2022. 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, effective July 10, 2022, which was approved. However, in a determination issued on August 22, 2022, the DUA disqualified her from receiving benefits for the week of August 14, 2022, because she had failed to timely complete her initial Reemployment Services and Eligibility Assessment (RESEA) requirements and career center seminar (RESEA seminar). 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, denying the claimant benefits for the week of August 14, 2022. We accepted the claimant's application for review.

Benefits were denied for the week of August 14, 2022, because the review examiner determined that the claimant had not shown good cause for failing to timely complete her RESEA seminar and, therefore, was not entitled to benefits during that week under G.L. c. 151A, § 25(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 had not shown good cause for failing to timely complete her RESEA seminar because she was having difficulty scheduling a time for the seminar and had technical issues attending the seminar, 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 (UI) claim with the Department of Unemployment Assistance (DUA) having an effective date of 7/10/2022. The claimant elected to receive information electronically from the DUA.

2. On 8/1/2022, the DUA sent the claimant a Re-Employment Services and Eligibility Assessment letter (hereafter referred to as the RESEA letter) informing her that she must complete a career center seminar (CCS) and initial RESEA requirement by 8/19/2022, and a follow-up RESEA Review meeting two weeks after the CCS requirement by 9/2/2022.
3. The RESEA letter was both mailed and sent to the claimant electronically. The electronic version of the letter automatically goes into the claimant's UI online inbox.
4. The RESEA letter states in relevant part: "Failure to participate or show good cause for not participating will result in a denial of UI benefits."
5. The claimant learned of the RESEA letter on or about 8/1/2022 when it posted to the claimant's UI online account inbox.
6. The claimant had difficulty scheduling a CCS and contacted a career center for assistance and on 8/30/2022 was sent a link to attend a virtual CCS, but the claimant could not access the virtual CCS through the link in the email and has not completed the CCS.
7. On 8/22/2022, the DUA issued a Notice of Disqualification informing the claimant that, for failing to attend the CCS and attain the initial RESEA requirement within the required time period, she is not entitled to receive benefits for the week beginning 8/14/2022. The claimant appealed the Notice of Disqualification.
8. The claimant had not attained the Initial RESEA as of the hearing date, 9/19/2022.

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. 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 is not entitled to benefits for the week of August 14, 2022.

The review examiner disqualified the claimant for failing to meet the requirements set forth under G.L. c. 151A, § 25(a), which 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.

Specifically, he concluded that the claimant had not shown good cause for failing to meet the DUA's requirement that she timely complete her RESEA seminar by August 19, 2022. The applicable regulations are found under 430 CMR 4.01, which provide, in pertinent part:

(8) Profiling.

(a) Any individual who has been identified pursuant to a profiling system established by the Commissioner as likely to exhaust regular benefits and in need of job search assistance services to make a successful transition to new employment shall not be eligible for benefits for any week such individual fails without good cause to attend and participate in a reemployment services seminar or such follow-up review sessions as directed by the Commissioner.

(b) For the purposes of 430 CMR 4.01(8)(a), the term "good cause" shall mean:

1. attendance at a job interview;
2. claimant, household member or immediate family member illness;
3. emergency family care issue, provided, that attempts to secure family care for the scheduled activity have been made;
4. unexpected transportation problems;
5. previously scheduled health-related appointments;
6. jury duty;
7. death of a household member or immediate family member (including a spouse, child, parent, brother, sister, grandparent, stepchild, or parent of a spouse);
8. the individual's need to address the physical, psychological and legal effects of domestic violence as defined in M.G.L. c. 151A, § 1(g^{1/2}); and
9. other circumstances which the Commissioner determines are beyond the individual's control; and

(c) An individual who fails to attend a reemployment services seminar or review session (either for good cause or otherwise) shall attend a rescheduled seminar or review session as directed by the Commissioner.

(d) A claimant who has been determined to have good cause for failing to attend a reemployment services seminar or review session shall be eligible for benefits, provided, that the claimant is otherwise eligible for benefits under the other provisions of M.G.L. c. 151A.

There was no dispute that the claimant had failed to complete her RESEA seminar until after the August 19, 2022, deadline. In the normal course, failure to meet this deadline results in a disqualification for benefits, unless the individual has good cause for failing to attend the required seminar. 430 CMR 4.01(8)(a).

Consistent with the claimant's uncontested testimony, the review examiner found that the claimant timely received the RESEA letter. The record also includes the claimant's further undisputed testimony that when she received the RESEA letter, she tried to schedule the RESEA seminar, but was unable to.¹ She then contacted the career center to address this difficulty but was not able to secure an appointment for her RESEA seminar before August 30, 2022. Finding of Fact # 6. As the record indicates the claimant made a good faith effort to timely complete her RESEA seminar, we believe that she has shown good cause for failing to complete that requirement by the August 19, 2022, deadline due to circumstances beyond her control. 430 CMR 4.01(8)(b)(9).

We, therefore, conclude as a matter of law that the issues the claimant encountered in scheduling her RESEA seminar constituted good cause under 430 CMR 4.01(8)(a) to miss the deadline. The claimant may not be disqualified under G.L. c. 151A, § 25(a), for the week of August 14, 2022.

The review examiner's decision is reversed. The claimant is entitled to receive benefits for the week of August 14, 2022, if otherwise eligible.

BOSTON, MASSACHUSETTS
DATE OF DECISION - October 23, 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

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.

LW/rh

¹ 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).