

Although the claimant developmental specialist was discharged for improperly using a physical restraint on the employer’s client, an adult with a disability, he reasonably believed that he and others were in imminent risk of substantial harm. Held the claimant was not acting in wilful disregard of the employer’s expectation but due to mitigating circumstances. He is eligible for benefits pursuant to G.L. c. 151A, § 25(e)(2).

**Board of Review
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Issue ID: 0079 5358 10

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. Benefits were denied on the ground that the claimant engaged in deliberate misconduct in wilful disregard of the employer’s interest pursuant to G.L. c. 151A, § 25(e)(2).

The claimant had filed a claim for unemployment benefits, effective March 19, 2023, which was denied in a determination issued by the agency on May 6, 2023. The claimant appealed to the DUA Hearings Department. Following a hearing on the merits attended by both parties, the review examiner affirmed the agency’s initial determination in a decision rendered on September 13, 2023. The claimant sought review by the Board, which denied the appeal, and the claimant appealed to the District Court pursuant to G.L. c. 151A, § 42.

On February 27, 2024, the District Court ordered the Board to obtain further evidence. Consistent with this order, we remanded the case to the review examiner to take additional evidence concerning the claimant’s state of mind at the time that he put the employer’s client, an adult with a disability, in a stability hold. Only the claimant attended the remand hearing. Thereafter, the review examiner issued her consolidated findings of fact.

The issue before the Board is whether the review examiner’s decision, which concluded that the claimant should be disqualified from receiving benefits because he improperly attempted to restrain a client as he was trying to leave a classroom, is supported by substantial and credible evidence and is free from error of law.

After reviewing the entire record, including the recorded testimony and evidence from the hearing, the review examiner’s decision, the claimant’s appeal, the District Court’s Order, and the consolidated findings of fact, we reverse the review examiner’s decision.

Findings of Fact

The review examiner's consolidated findings of fact and credibility assessment, which were issued following the District Court remand, are set forth below in their entirety:

1. From July 9, 2019, to March 17, 2023, when the employer discharged him, the claimant worked full-time as a developmental specialist for the employer, a human services organization.
2. As a developmental specialist, the claimant cared for disabled adults ("members") enrolled in the employer's day program, at the employer's facility.
3. The claimant's direct supervisor was the employer's program manager.
4. The employer maintains a Code of Professional Ethics, contained in the employee handbook, which requires employees "to provide professional, clinically appropriate, effective and efficient services and supports to each person served."
5. The employer maintains an employee "Standards of Work Performance" policy, contained in the employee handbook, which prohibits: (1) "any act that may create a dangerous situation for employees or persons served, including threatening or assaulting another individual, fighting, or attempting to cause bodily harm, disregarding property or safety standards or unsafe transport," (2) "engaging in illegal or unprofessional conduct," (3) "using unprofessional or threatening language," and (4) "failing to comply with established [employer's name] safety rule or policies."
6. The employer's safety rules and/or policies are reflected in the employer's "Safety Care" protocol. When a member becomes agitated, the employer's Safety Care protocol requires employees to attempt to "redirect" the member to prevent an incident, and then, if unsuccessful, attempt to minimize an incident. The use of "physical management" is prohibited unless, (1) there is imminent risk of serious harm to the agitated person or someone else, (2) there is no other practical way to prevent that harm without physical management, and (3) the risk of not intervening must be greater than the risk of intervening.
7. The employer requires all member-facing employees to complete mandatory "Safety Care" training. The claimant successfully completed the employer's "DS Safety Care Recertification" training on August 9, 2019, September 30, 2021, and August 8, 2022.
8. The purpose of the Policy, the Code, and the Safety Care protocol is to ensure the safety and well-being of employees and members.
9. The employer expects employees to refrain from physical intervention with members, unless there is imminent danger of serious harm to the member or others in the area, and there is no other way to maintain safety.

10. The claimant was aware of the employer's expectation through his receipt of the Code and the Policy during new employee orientation, and through his completion of Safety Care training.
11. On or about two years prior to the subject incident, the claimant worked for a different employer caring for disabled individuals. The claimant was physically attacked by a resident and restrained the resident. The claimant went to the hospital with gouges on his arms from the resident's nails. The employer approved of the claimant's use of physical restraint.
12. On the morning of March 2, 2023, the claimant and a female staff member were caring for 8 members, two in wheelchairs, in one of the classrooms at the employer's facility. The classroom had a set of emergency exit doors that open onto the parking lot, a door that leads to the nurse's office, and a door to a changing room. The program manager was in and out of the classroom.
13. One of the 10 members was "Member A". Member A is a 23-year-old autistic man with developmental delays and a seizure disorder. He weighs approximately 190 pounds and is 5'11" and wears a "soft" protective helmet. Member A is unsteady on his feet, requires a gait belt and has a history of falling. The claimant is 5'5" and weighs 130 pounds. The claimant never worked directly with Member A before March 2, 2023.
14. Prior to March 2, 2023, Member A had a history of becoming aggressive when he wanted something, typically, a band aid, and employees would redirect the claimant. Member A could be physically aggressive, and the claimant had previously witnessed Member A strike other program members. Staff members physically restrained Member A at least three separate times. In one of those instances, the senior program director and the employer's nurse, had to physically restrain Member A. The nurse weighed approximately 80 pounds less than Member A and kept losing her grip. Another employee had to step in to assist with the hold.
15. Prior to March 2, 2023, Member A broke locks on doors and left the facility at least twice, before he was retrieved from a liquor store down the street.
16. At the time of the subject incident, the claimant was aware that Member A (1) had a history of aggressive behavior towards staff and other members, (2) was physically restrained at least three times by other staff members, (3) had mobility issues and a history of falling, (4) had broken locks to gain access to the nurse's office and to leave the facility, and (5) had left the facility.
17. [On] [t]he morning of March 2, 2023, while being driven to the facility, Member A reached forward and pulled on the car door handle. The driver stopped Member A from opening the door while the car was in motion. The driver told the claimant about the incident when he dropped off Member A that morning. Member A was agitated when he arrived at the program.

18. Once in the classroom, Member A asked the claimant for a band aid more than twice. The claimant redirected Member A by telling him that the nurse would come and check on him shortly, and once, the program manager redirected Member A by asking him to assist her with setting up the employer's changing room. Member A joined the program manager in the changing room briefly but then returned to the classroom. The program manager left the classroom and subsequently, another direct support staffer, who was employed by a third-party, entered the classroom. While the claimant was giving another member a glass of water, Member A jumped up from his seat and started to quickly advance towards the claimant. The claimant directed Member A to stop, and Member A proceeded to push into the claimant with his helmeted head, and with his hands grabbing and pinching at the claimant's stomach.
19. The claimant feared Member A might fall, potentially injuring himself and others. Due to Member A's prior history of aggression and physical size, the claimant feared for his physical safety, Member A's physical safety, and the safety of other members, particularly those with limited mobility,
20. The claimant decided to physically restrain Member A using a "two-person stability hold" and asked the other staff member to assist him. While Member A struggled to break free, the claimant stood on Member A's left side with his right arm wrapped around Member A's left arm, while the other staff member stood behind Member A towards Member A's right side and held Member A's gait belt. The program manager came upon the claimant and the staff member attempting to physically restrain Member A, and instructed them to release Member A. The claimant and staff member released Member A, and the program manager accompanied Member A to the nurse's office and gave him a band aid. The program manager then returned Member A to the classroom, and the claimant's care without incident.
21. The claimant and Member A's interaction lasted seconds.
22. The claimant and the staff member did not properly perform a 2-person safety hold when they attempted to physically restrain Member A.
23. Later that morning, the claimant told the employer's shift manager that, while restraining Member A, Member A "pushed" the claimant's head, injuring the claimant. The shift manager did not witness the claimant's interaction with Member A. The shift manager told the claimant to tell the program manager, so she could prepare the paperwork for a workers' compensation claim. Subsequently, the claimant was filling out the necessary paperwork with the shift manager, when the program manager asked the claimant how he was injured. The claimant reported he was injured while restraining Member A. The program manager told the claimant that she did not see him get injured, and that the claimant was injured because he did not perform the "safety hold" properly and did not know how to do Safety Care. The claimant became upset and told

the program manager that he knew how do to Safety Care and had passed the class and did not need to give the program manager a statement about how the injury occurred because he had already given a statement to the shift manager and threw the paperwork to the ground. The verbal altercation ended with the claimant leaving the facility.

24. Subsequently, the program manager notified the senior program director that the claimant had reported he was injured while physically restraining Member A, and that the claimant threw the worker compensation paperwork at her. The program manager and the program director notified the employer's human resources manager.
25. Later that same day, at 2:39 p.m., the claimant emailed the senior program director and the employer's behavioral specialist that he was injured that morning while he and another staff member attempted to physically restrain Member A. The claimant reported Member A "began to aggress toward me. I motioned and asked him to keep his personal space. He processed [sic] to push into me with his head. He was grabbing and trying to pinch me. I attempted to redirect him back to his table while holding his gate [sic] belt, he continued to push me. Another staff and I attempted to put this individual into two-person stability hold. He was fighting the hold and was able to free his hand, and he pushed my head on the left side causing my head to swing to the right. [Program manager] was in the classroom and instructed us to let him go." The senior program director forwarded the email to the human resources manager. The HR manager had not known that another staff member was involved in the incident.
26. The HR manager spoke to the program manager again, and the program manager explained that the restraint was not a Safety Care approved hold and the situation did not warrant physical intervention. The HR manager instructed the program manager to prepare an "Internal Restraint Report" because the claimant reported he was injured, and to file an incident report with the Commonwealth's Disabled Persons Protection Commission (DPPC). The program manager prepared the Internal Report and filed an incident report with the DPCC. The HR manager obtained a written statement from the program manager and the staff member who restrained Member A.
27. Later that same day around 4:00 p.m., the HR manager called the claimant. The claimant reported he had seen a doctor and was prescribed Motrin for neck pain but did not tell the doctor he was injured at work. The claimant told the HR manager he did not want to pursue a workers' compensation claim. The HR manager instructed the claimant that since he was injured, he needed to speak with the program manager so she could gather the necessary information to prepare a report. The claimant stated he would call in sick the next day. The claimant chose not to contact the program manager and chose not to provide a statement.

28. On March 3, 2023, after reviewing the written statements and the claimant's email, the HR Manager, with management's approval, called the claimant and told him he was suspended effective immediately, pending an investigation into the subject incident.
29. On March 3, 2023, the employer suspended the claimant.
30. On March 10, 2023, the employer determined that the claimant had violated the employer's physical restraint policies and expectations and decided to discharge the claimant.
31. On March 17, 2023, the HR manager and the senior program director discharged the claimant via telephone for improper restraint of Member A on March 2, 2023.
32. Later that same day, the claimant emailed the HR Manager and the senior program director. In his email, the claimant stated, "[Member A] was not trying to get out of the room. He was attacking me. The incident happened over by the desk not the door."
33. The claimant filed an initial claim for unemployment benefits with the Department of Unemployment Assistance (DUA), with an effective date of March 19, 2023.
34. The claimant's last physical day at work was March 2, 2023.
35. On March 2, 2023, the claimant believed his safety was at risk, when he attempted to physically restrain Member A.
36. On March 2, 2023, the claimant believed Member A's safety was at risk, when he attempted to physically restrain Member A.
37. On March 2, 2023, the claimant believed other classroom members' safety was at risk, when he attempted to physically restrain Member A.
38. The staff member's "witness statement" is undated, unsigned and prepared by the program manager.

Credibility Assessment:

In this case, the parties agree to the following: (1) pursuant to the employer's policies and expectations, physical restraint of members should only be used with [sic] there is imminent danger of serious harm to the member or others in the area, and there is no other way to maintain safety, (2) Member A could persevere, (3) Member A could require redirection, (4) on March 2, 2023, the claimant and a staff member attempted to physically restrain Member A in a classroom, in the employer's facility, (5) the employer determined the claimant's use of physical

restraint on March 2, 2203 was improper, and (6) on March 17, 2023, the employer discharged the claimant for improper use of physical restraint on March 2, 2023.

The employer did not attend the April 1, 2024 [sic],¹ hearing, but asserted at the prior hearings that Member A was never physically restrained before March 2, 2023. The claimant and his witness, the shift manager, both provided specific examples of Member A's aggression, including an incident when two staff members attempting to physically restrain Member A required assistance. In addition, the claimant and his witness testified to the claimant's mobility issues, history of falling, seizure disorder, and propensity for leaving the facility unnoticed. Further, the claimant testified to his knowledge of Member A's aggressive and assaultive behavior and previous instances of physical restraint, prior to the subject incident. Although the shift manager was not present for the subject incident, she testified that she personally witnessed other instances of Member A exhibiting the same behavior, striking a staff member with his helmeted head and grabbing or pinching at the staff member. The claimant testified that for multiple reasons including Member A's physical size, and his knowledge of Member A's aggressive behavior, history of falling, and leaving the facility, he was afraid for Member A's safety, his safety and the safety of the other members. Further, the claimant attempted to redirect Member A multiple times but was unsuccessful. As such, for the above stated reasons, including the claimant's unfamiliarity with caring for Member A, the claimant and Member A's size disparity, the claimant's previous assault while working as a caretaker, and where the entire incident lasted seconds, the claimant's fear of serious harm to himself, Member A or other members was reasonable, and therefore credible. Further, the employer acknowledged at the prior hearings that the program manager did not witness the claimant and Member A's interaction prior to the restraint. Moreover, the "statement" from the staff member who assisted the claimant with the restraint, is unsigned, undated, and was prepared by the program manager. As such, given the totality of the evidence, and where the employer chose not to attend the hearing on April 1, 2024 [sic], and therefore failed to provide live testimony refuting the claimant's and the shift manager's testimony, the claimant's testimony, that he called for the physical restraint because he believed serious harm to himself, Member A, and/or the other members was imminent, is deemed credible.

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 consolidated 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 consolidated findings of fact and credibility assessment except as follows. Consolidated Finding # 11 incorrectly states that the claimant had worked for a different employer, because the record demonstrates he had worked for the instant employer at the time, albeit at a different location. Consolidated Finding # 13 is

¹ The remand hearing took place on April 19, 2024, not April 1, 2024. See Remand Exhibits 8 and 9, which are the notices of hearing for the claimant and employer, respectively.

inconsistent with Consolidated Finding # 12 and incorrectly states the number of members in the classroom as ten. Consolidated Finding # 12 accurately reflects the claimant’s unrefuted testimony that there were eight members in the classroom on March 2, 2023. Lastly, Consolidated Finding # 19 appears to be incomplete. Given that Consolidated Finding # 20 appears to be a logical continuation to the statements contained in Consolidated Finding # 19, we attribute the incomplete portion to a mere scrivener’s error. In adopting the remaining findings, we deem 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. However, as discussed more fully below, we now reject the review examiner’s legal conclusion that the claimant is ineligible for benefits.

Because the claimant was discharged from his employment, his eligibility for benefits is governed by G.L. c. 151A, § 25(e)(2), which provides, in pertinent part, 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 . . . (2) by discharge shown to the satisfaction of the commissioner by substantial and credible evidence to be attributable to deliberate misconduct in wilful disregard of the employing unit’s interest, or to a knowing violation of a reasonable and uniformly enforced rule or policy of the employer, provided that such violation is not shown to be as a result of the employee’s incompetence. . . .

“[T]he grounds for disqualification in § 25(e)(2) are considered to be exceptions or defenses to an eligible employee’s right to benefits, and the burdens of production and persuasion rest with the employer.” Still v. Comm’r of Department of Employment and Training, 423 Mass. 805, 809 (1996) (citations omitted).

There are no findings as to whether the employer maintained discretionary authority in the form of discipline for any violation of its policies and expectations. The employer did not offer any direct testimony on this point. However, the employer’s termination letter, issued to the claimant, indicates that the employer retains discretion as to what type of discipline it imposes for policy violations, and nothing in the employer’s code of professional ethics, standards of work performance, or safety care protocol contradicts that assertion. *See* Exhibits 1, 10, and 15–17.² Since the employer failed to provide any evidence showing that it discharged all employees who allegedly violated its policies and expectations under similar circumstances, it has failed to meet its burden to show that the claimant violated a reasonable and *uniformly enforced* policy. Alternatively, the employer may show that the claimant’s actions constitute deliberate misconduct in wilful disregard of the employer’s interest.

² Exhibit 1 is the termination letter, dated March 17, 2023. Exhibit 10 is a copy of the employer’s HR policies. Exhibit 15 is comprised of documents containing the employer’s policies and procedures and includes the code of ethics and standards of work performance. Exhibits 16 and 17 consist of documents pertaining to physical management and the employer’s safety care protocol. While not explicitly incorporated into the review examiner’s findings, the contents of these exhibits are part of the unchallenged evidence introduced at the hearing and placed in the record, and they are thus properly referred to in our decision today. *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).

We next consider whether the employer has met its burden to show that the claimant engaged in deliberate misconduct in wilful disregard of the employer's interest. To meet its initial burden, the employer is required to show that the claimant engaged in misconduct. The employer discharged the claimant for the improper restraint of Member A on March 2, 2023, which is in violation of its policies and expectations relating to physical restraint. *See Consolidated Findings ## 30–31.*

In her credibility assessment, the review examiner noted that the parties do not dispute that the claimant improperly performed a two-person stability hold on Member A. While we believe that this statement is generally supported by the record, we also believe that it is vague. In our view of the record, the employer discharged the claimant for two distinct reasons: first, for having applied a physical restraint on Member A, and then, once initiated, for having improperly performed the two-person stability hold.

We first address the claimant's general act of applying physical restraint on Member A. The employer expects employees to refrain from engaging in any type of physical intervention with members, unless there is an imminent danger of serious harm to the member or others, and there is no other way to maintain safety. Consolidated Finding # 9. Specifically, the employer's safety protocol requires employees to attempt to "redirect" the member to prevent an incident, then to attempt to minimize an incident should one occur and lists three criteria for the use of physical management on a member. *See Consolidated Finding # 6.* Here, the consolidated findings show that the claimant attempted to "redirect" Member A twice, first by telling him that a nurse would check on him, then by telling Member A to stop advancing towards him. Consolidated Finding # 18. Therefore, the record establishes that the claimant complied with this aspect of the employer's safety protocol.

Member A had a history of becoming aggressive, and the claimant had previously witnessed Member A strike other program staff, who have had to restrain Member A on at least three separate occasions. Consolidated Finding # 14. On March 2, 2023, Member A jumped up from his seat, started to quickly advance towards the claimant, proceeded to push into the claimant with his "helmeted head and with his hands grabbing and pinching at the claimant's stomach." Consolidated Finding # 18. Given these findings, including the significant size disparity between the claimant and Member A, we can reasonably infer that the claimant was at imminent risk of serious harm. *See Consolidated Finding # 13.*

The record also establishes that there was potential for Member A to be harmed as a result of his interaction with the claimant on March 2, 2023. It is undisputed that Member A is an autistic man with a seizure disorder and is unsteady on his feet, with a history of falling. Consolidated Finding # 13. Member A has broken door locks and left the facility twice. Consolidated Findings ## 15–16.

Upon review of the entire record, we see nothing in it that suggests a viable alternative existed to maintain safety and prevent harm to the claimant or Member A. We also note that the claimant did not resort to physical management immediately. Rather, the consolidated findings show that the claimant redirected the claimant first and only decided to physically restrain Member A after Member A made physical contact with him. Consolidated Findings ## 18 and 20. The claimant's decision to apply physical management on Member A was not improper under these

circumstances. Rather, the claimant's decision to engage in physical intervention with Member A was consistent with the employer's policies and does not, by itself, constitute misconduct.

However, during the initial hearing, the employer testified that the claimant was also discharged for failing to correctly perform the two-person stability hold on Member A.³ See Consolidated Findings ## 26 and 31. The claimant does not refute this contention. See Consolidated Finding # 22. Although the claimant attempted to use a two-person stability hold, he nonetheless failed to execute it properly, which resulted in a restraint that the employer did not approve as a safety care hold. Consolidated Finding # 26. While the claimant may have had several reasons for improperly restraining Member A, which will be discussed in greater detail, below, we believe that the employer established that the claimant engaged in misconduct by doing so.

Consolidated Finding # 20 reflects that the claimant decided to physically restrain Member A and continued to do so until the program directed instructed him and the staff member to release the hold. Because nothing in the record suggests that the claimant's actions were inadvertent or accidental, it is reasonable to infer that the claimant acted deliberately.

However, establishing deliberate misconduct alone is not enough. Such misconduct must also be in wilful disregard of the employer's interest. In order to determine whether an employee's actions were in wilful disregard of the employer's interest, the proper factual inquiry is to ascertain the employee's state of mind at the time of the behavior. Grise v. Dir. of Division of Employment Security, 393 Mass. 271, 275 (1984). In order to evaluate the claimant's state of mind, we must "take into account the worker's knowledge of the employer's expectation, the reasonableness of that expectation and the presence of any mitigating factors." Garfield v. Dir. of Division of Employment Security, 377 Mass. 94, 97 (1979) (citation omitted). Mitigating circumstances include factors that cause the misconduct and over which a claimant may have little or no control. See Shepherd v. Dir. of Division of Employment Security, 399 Mass. 737, 740 (1987).

There is no dispute that the claimant was aware of the employer's policies and expectations regarding the use of physical management. Consolidated Finding # 10. The review examiner found that the purpose of these policies was to ensure the safety and well-being of employees and members. Consolidated Finding # 8. Such a purpose is self-evidently reasonable.

In her original decision, the review examiner rejected the claimant's contention that Member A was attacking him and that he was in imminent risk of severe harm as not credible, because she had determined that Member A was attempting to exit the classroom when the claimant decided to restrain him. See Remand Exhibit 1.⁴ After remand, however, the review examiner no longer found that Member A attempted to leave the classroom, credited several aspects of the claimant's testimony, and made a credibility assessment that the claimant reasonably believed that he and others, including Member A, were at risk of serious harm. See Consolidated Findings ## 35-37. Such assessments are within the scope of the fact finder's role, and, unless they are unreasonable in relation to the evidence presented, they will not be disturbed on appeal. See School Committee of Brockton v. Massachusetts Commission Against Discrimination, 423 Mass. 7, 15 (1996). "The test is whether the finding is supported by "substantial evidence." Lycurgus v. Dir. of Division

³ This portion of the employer's testimony is also part of the unchallenged evidence introduced at the hearing and placed into the record.

⁴ Remand Exhibit 1 is the hearing decision, dated September 13, 2023.

of Employment Security, 391 Mass. 623, 627 (1984) (citations omitted). “Substantial evidence is ‘such evidence as a reasonable mind might accept as adequate to support a conclusion,’ taking ‘into account whatever in the record detracts from its weight.’” *Id.* at 627–628, *quoting New Boston Garden Corp. v. Board of Assessors of Boston*, 383 Mass. 456, 466 (1981) (further citations omitted). Based upon the record before us, we see no reason to disturb the review examiner’s assessment of the evidence.

In our view, this record shows that, at the time he attempted to place Member A in the stability hold, the claimant was not acting in wilful disregard of the employer’s interest. The consolidated findings establish that the claimant acted out of fear for the safety of himself and others. We agree that the claimant’s safety concerns in this instance were reasonable and well-founded. He could not control Member A’s aggressive and dangerous behavior. The claimant acted to prevent harm and protect his own safety and well-being, as well as the safety and well-being of others, by utilizing his training in the employer’s policies and expectations, as well as his knowledge of Member A, to address the situation. Taking the entire record into consideration, the claimant has shown mitigating circumstances for his conduct.

We, therefore, conclude as a matter of law that the employer has not met its burden to show that the claimant engaged in deliberate misconduct in wilful disregard of the employer’s interest, or that he knowingly violated a reasonable and uniformly enforced policy within the meaning of G.L. c. 151A, § 25(e)(2).

The review examiner’s decision is reversed. The claimant is entitled to receive benefits for the week beginning March 19, 2023,⁵ and for subsequent weeks if otherwise eligible.

BOSTON, MASSACHUSETTS
DATE OF DECISION - October 2, 2024



Paul T. Fitzgerald, Esq.
Chairman



Michael J. Albano
Member

Member Charlene A. Stawicki, Esq. did not participate in this decision.

⁵ In her original decision, the review examiner denied benefits beginning on March 17, 2023. We have modified the start of the claimant’s eligibility period to reflect the appropriate week beginning date.

**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.

JMO/th