

Where the review examiner found that the claimant did not receive her initial RESEA letter and did not become aware of the Initial RESEA requirements until she received a notice of disqualification, the claimant had good cause for her failure to complete the Initial RESEA requirements by the deadline.

**Board of Review
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Issue ID: 0079 9177 16

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. 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 February 19, 2023, which was denied for the week ending April 22, 2023, in a determination issued on April 24, 2023. 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 and denied benefits in a decision rendered on July 1, 2023. We accepted the claimant's application for review.

Benefits were denied after the review examiner determined that the claimant failed to demonstrate that she had good cause for failing to complete the Initial RESEA requirement and, thus, was disqualified 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's failure to timely complete the Initial RESEA by the deadline of April 21, 2023, was not due to good cause, 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 claim having an effective date of 2/19/2023. The claimant elected to receive information via U.S. Postal Service.
2. On 4/3/2023, the Department of Unemployment Assistance (DUA) mailed the claimant a letter (hereafter referred to as the RESEA letter) informing her she must complete a career center seminar and initial RESEA meeting by 4/21/2023 and her Final RESEA Review by 5/5/23.

3. DUA sent the RESEA letter to the claimant electronically and via U.S. mail.
4. The RESEA letter was entitled [sic] **MANDATORY PARTICIPATION TO KEEP YOUR UNEMPLOYMENT BENEFITS** (emphasis in original) and stated, in part: “Failure to participate in required activities without good cause will cause you to lose Unemployment Benefits.”
5. The claimant did not receive the RESEA letter in her mail.
6. The claimant called DUA in late April after she was disqualified from receiving a benefit payment. The DUA agent informed the claimant of the requirements of the RESEA program and advised her to go to the career center.
7. The claimant went to the career center on 6/1/23. She was unable to stay to watch the career center seminar. The career center staff person gave her a link to watch the video virtually and told her to call after she had completed it so that she could continue with the program.
8. The claimant did not contact the career center after 6/1/23.
9. The claimant has not yet attained her Initial RESEA Seminar.
10. On 4/24/23, the DUA issued a Notice of Disqualification (the “Notice”) to the claimant determining the claimant did not meet the filing requirements of the Law and therefore was disqualified for the week beginning 4/16/23.
11. The claimant appealed the Notice.

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 was disqualified from receiving benefits for the week ending April 22, 2023.

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, she concluded that the claimant failed to meet the DUA's requirement that she complete the Initial RESEA requirements. Those 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.

The review examiner found that the claimant elected to receive her correspondence from the DUA via U.S. Mail. Finding of Fact # 1. The review examiner further found that the claimant did not receive the mailed letter informing her of the RESEA requirements, including the Initial RESEA seminar and meeting, which was to be completed by April 21, 2023. Findings of Fact ## 2 and 5. The claimant did not find out about the RESEA requirements until she called the DUA after receiving the notice of disqualification a few days after missing the April 21st deadline to complete the Initial RESEA requirements. Finding of Fact # 6.

Because the claimant did not receive the April 3, 2023, letter informing her of the RESEA requirements, she had no way of knowing that she was required to complete the Initial RESEA by April 21, 2023. These circumstances were outside of the claimant's control and constitute good cause for her failure to complete the Initial RESEA requirements by the deadline.

The review examiner's decision is reversed. The claimant is entitled to receive benefits for the week ending April 22, 2023, if otherwise eligible.

BOSTON, MASSACHUSETTS
DATE OF DECISION - June 28, 2024



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

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.

SVL/rh