

Inasmuch as the claimant returned to full-time work prior to the deadline for completing her RESEA review and notified the career center about her return to work well in advance of the deadline, she had good cause for not completing the RESEA review under G.L. c. 151A, § 25(a), and may not be denied benefits.

**Board of Review
100 Cambridge Street, Suite 400
Boston, MA 02114
Phone: 617-626-6400
Fax: 617-727-5874**

**Paul T. Fitzgerald, Esq.
Chairman
Charlene A. Stawicki, Esq.
Member
Michael J. Albano
Member**

Issue ID: 0082 3640 01

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 December 31, 2023, which was approved. However, in a determination issued on March 11, 2024, the DUA disqualified the claimant from receiving benefits beginning the week of March 3, 2024, because she did not complete her RESEA review as required under G.L. c. 151A, § 25(a). 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 June 1, 2024. We accepted the claimant's application for review.

Benefits were denied after the review examiner determined that the claimant did not have good cause for her failure to complete the RESEA review by the deadline or thereafter, and, thus, she 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 the claimant did not have good cause for her failure to complete the RESEA review because she failed to properly notify the MassHire Career Center that she had begun a new full-time job, 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. On February 5, 2024, a letter was [sic] to the claimant's UI inbox explaining that the claimant was selected to participate in the Reemployment Services and Eligibility Assessment Program (RESEA).

2. The RESEA letter included the requirements, contact information, and deadlines for the program. The deadline for registering, attending a career seminar, an initial review, and attending a follow-up RESEA Review Meeting was March 8, 2024. The letter informed the claimant that failure to participate would result in denial of UI benefits.
3. The claimant received the RESEA letter and was in active contact with MassHire career services staff.
4. On February 6, 2024, the MassHire career services representative contacted the claimant to discuss the RESEA program. The claimant informed the representative that she received and accepted an offer for full-time employment with a start date of February 19, 2024. The representative told the claimant to send her the offer and acceptance letter. The claimant told the representative that she would send the information on February 19th, when she is due to start work.
5. On February 6, 2024, the MassHire representative sent the claimant a “Return to Work” email with information that is needed to be provided to MassHire.
6. On February 19, 2024, the claimant accessed the Jobquest employment site from her UI online portal and filled out a return-to-work form. The claimant believed this would suffice as notice for the RESEA requirements.
7. The claimant did not send the offer and acceptance letter to the MassHire representative as requested.
8. The claimant did not schedule or attend the required follow-up RESEA Review Meeting by March 8, 2024.
9. On March 11, 2024, the DUA issued a Notice of Disqualification for failing to report for/attain the UI RESEA Review as required.

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.

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, the review examiner concluded that the claimant had not shown good cause for failing to meet the DUA's requirement that she timely complete her RESEA review by March 8, 2024. 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(g½); 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.

Additionally, 430 CMR 4.04(7)(c) instructs that the DUA shall apply the "reasonable person" test in determining whether just cause exists for failure to participate.

The claimant was aware the DUA had enrolled her in the RESEA program and further understood that she was required to complete her RESEA review by March 8, 2024. *See Findings of Fact ## 2 and 3.* However, she did not schedule or complete this review, as she notified a MassHire representative that she had accepted new, full-time work with a start date of February 19, 2024. Findings of Fact ## 4, 6, and 8. Given these facts, the review examiner erred in concluding that the claimant did not have good cause for failing to complete her RESEA review by the applicable deadline.

Amongst the enumerated situations that constitute good cause for not completing the RESEA requirements is attendance at a job interview. 430 CMR 4.01(8)(b)(1). As the express purpose of the RESEA program is to assist claimants in securing new employment, it stands to reason that securing full-time employment would also excuse a claimant's attendance at a RESEA review. *See 430 CMR 4.01(8)(a) and Board of Review Decision 0030 9537 40 (Sept. 23, 2019).* The claimant in this case began her full-time employment prior to the March 8, 2024, deadline and promptly notified her local career center about her return to work.

We, therefore, conclude as a matter of law that the claimant had good cause not to complete the RESEA review by March 8, 2024, deadline and she may not be disqualified under G.L. c. 151A, § 25(a).

The review examiner's decision is reversed. The claimant is entitled to receive benefits for the week of March 3, 2024, and for subsequent weeks if otherwise eligible.

BOSTON, MASSACHUSETTS
DATE OF DECISION - September 27, 2024



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.

LSW/rh