

Board of Review
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Issue ID: 0082 5958 93

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 a waiver of overpaid unemployment benefits. We review, pursuant to our authority under G.L. c. 151A, § 41, and affirm.

On May 18, 2022, the agency initially determined that the claimant had been overpaid unemployment benefits. The claimant appealed and attended the hearing. In a decision rendered on August 24, 2024, the review examiner affirmed the agency determination, concluding that recovery of the overpayment would not defeat the purpose of the benefits otherwise authorized or be against equity and good conscience, and, thus, the claimant was not eligible for a waiver under G.L. c. 151A, § 69(c). The Board accepted the claimant's application for review.

Ruling of the Board

After considering the recorded testimony and evidence from the hearing, the review examiner's decision, and the claimant's appeal, we conclude that the review examiner's decision denying the claimant a waiver of the overpayment at issue is based on substantial evidence and is free from any error of law affecting substantive rights.

We note the review examiner improperly assessed the claimant's eligibility for a waiver based on his gross monthly income rather than his net monthly income. Additionally, the language contained in the review examiner's Conclusions and Reasoning section suggests that she may have inappropriately considered the claimant's non-liquid assets in making her decision. These errors on the review examiner's part, however, do not affect the outcome. The findings of fact rendered by the review examiner accurately reflect evidence the claimant presented verifying both his net monthly income and his ordinary and necessary living expenses. As these findings show the claimant's net monthly income exceeds his monthly expenses, we agree with the review examiner's legal conclusion that recovery of the overpayment at issue would not defeat the purpose of benefits otherwise authorized.

The review examiner's decision is affirmed. The claimant's request for waiver of recovery of overpaid benefits is denied. The claimant must repay to the DUA \$1,044 (or the remaining balance if different) in overpaid benefits. We note that the claimant may reapply for an overpayment waiver should his financial circumstances change in the future.

BOSTON, MASSACHUSETTS
DATE OF DECISION - October 30, 2024



Paul T. Fitzgerald, Esq.
Chairman



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.

LSW/rh