

Although a sudden loss of child-care prevented the claimant from attending his first scheduled RESEA meeting, the claimant failed to demonstrate that child-care or any other issue prevented him from timely meeting his RESEA review deadline. He is disqualified pursuant to G.L. c. 151A, § 25(a), for the time period between that deadline and the date he finally attained his RESEA review.

**Board of Review
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Issue ID: 0083 3954 55

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 affirm.

The claimant filed a claim for unemployment benefits with the DUA, effective May 12, 2024, which was approved. However, in a determination issued on August 12, 2024, the claimant was disqualified beginning August 4, 2024. The claimant appealed the determination to the DUA hearings department. Following a hearing on the merits, the review examiner modified the agency's initial determination and denied benefits from August 4 to 24, 2024, in a decision rendered on September 21, 2024. We accepted the claimant's application for review.

Benefits were denied after the review examiner determined that the claimant failed to complete the Reemployment Services Eligibility Assessment (RESEA) requirements without good cause, and, thus, he was disqualified pursuant to G.L. c. 151A, § 25(a). After considering the recorded testimony and evidence from the hearing, the review examiner's decision, and the claimant's appeal, we remanded the case to the review examiner to render further subsidiary findings of fact from the record pertaining to the reason for missing a RESEA meeting prior to the deadline. Thereafter, the review examiner issued her consolidated findings of fact. Our decision is based upon our review of the entire record.

The issue before the Board is whether the review examiner's decision, which concluded that the claimant did not demonstrate good cause for the delay in attaining his RESEA review, is supported by substantial and credible evidence and is free from error of law.

Findings of Fact

The review examiner's consolidated findings of fact and credibility assessment are set forth below in their entirety:

1. The claimant filed his claim for unemployment benefits on May 15, 2024. The effective date of the claim is May 12, 2024.

2. Upon filing his claim for unemployment benefits, the claimant elected to receive his correspondence electronically. The claimant provided the Department with his correct email address. The claimant's primary language is English.
3. The claimant had previously filed a claim(s) for unemployment benefits.
4. The claimant was checking his DUA inbox on a regular basis, every few days.
5. On July 8, 2024, the claimant was issued the Reemployment Service and Eligibility Assessment Program (RESEA) letter indicating that he would have to complete steps one through three, which included attending a Career Center Seminar/Initial RESEA to be completed by 7/26/2024 and would also be required to complete the RESEA Review by 8/9/2024.
6. The claimant received the RESEA Program letter in his DUA inbox. The date that he saw the letter is unknown. The claimant read and understood the RESEA requirements.
7. The claimant completed the Orientation virtually on July 19, 2024.
8. The claimant was scheduled for his Initial RESEA Review on July 26, 2024 at 10 a.m. The claimant has a two-year-old autistic child. The claimant had a babysitter scheduled for that day, but the babysitter did not arrive. The claimant missed that appointment because he did not have a childcare provider for his autistic child on July 26th and could not attend on that date.
9. Thereafter, when speaking with the MassHire representative, the next appointment was scheduled for the claimant on August 8, 2024.
10. The claimant completed the Initial RESEA Review on August 8, 2024. The claimant completed that at [Name A] Career Center.
11. After attending the Initial RESEA Review, the claimant began to receive his unemployment benefits again.
12. The claimant did not complete the RESEA Review by the August 9, 2024 date.
13. On August 12, 2024, a Notice of Disqualification was issued under Section 25(a) of the Law, indicating "It has been established, that although notified, you failed to report for/attain the UI RESEA Review as required." "You are not eligible to receive benefits beginning 8/4/2024 and indefinitely until the week you attain your UI RESEA Review requirements because you have failed to take all of the required steps to complete the UI RESEA Review program within the time period required." The claimant filed an appeal to that determination.

14. On August 16, 2024, the claimant reached out to schedule the RESEA Review with the [Name B] Career Center. The claimant met with the individual on August 19, 2024. Thereafter, the remaining information was submitted indicating that the claimant completed and attained the RESEA Review on August 26, 2024.

Credibility Assessment:

The claimant testified that he was scheduled to attend the Initial RESEA on July 26, 2024, but his childcare provided did not arrive as scheduled and as a result he missed the appointment. The claimant made no indication that there was an on-going childcare issue beyond the July 26th date. However, his testimony as to what occurred on July 26th with the lack of childcare for his child is accepted as 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. Upon such review, the Board adopts the review examiner's consolidated findings of fact and deems 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. As discussed more fully below, we also agree with the review examiner's legal conclusion that the claimant did not show good cause for the delay in meeting his RESEA requirements.

The claimant was denied benefits due to his failure to complete the final RESEA review by the assigned deadline, which DUA required in order for him to continue receiving unemployment benefits. We analyze his eligibility 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.

Also relevant is the following DUA regulation, which pertains to participation in RESEA services. 430 CMR 4.01 provides, 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.

The issue before us is whether the claimant had good cause within the meaning of the above regulation to miss the RESEA review deadline set forth in the DUA’s July 8, 2024, letter (RESEA letter). The deadline was August 9, 2024. *See Consolidated Finding # 5.* He did not complete the RESEA review until August 26, 2024. *See Consolidated Finding # 14.*

During our review of the initial hearing, it was unclear whether the claimant was unable to meet his RESEA deadline due to a last-minute loss of child-care. If so, this might have constituted good cause pursuant to 430 CMR 4.01(8)(b)(3). We remanded for the review examiner to clarify the findings based upon the claimant’s testimony.

After remand, the consolidated findings show that the claimant had to reschedule his initial July 26, 2024, RESEA meeting because a babysitter for his 2-year-old autistic son did not show up. *See Consolidated Finding # 8.* Although this caused him to miss the initial July 26, 2024, RESEA meeting deadline, his reason for missing the initial RESEA meeting deadline is not before us. The only question in the instant appeal is whether the claimant has shown good cause to miss the August 8, 2024, RESEA review deadline.

As the review examiner notes in her credibility assessment, the claimant did not raise any on-going child-care issues that prevented him from quickly meeting his outstanding RESEA obligations after July 26, 2024. Yet, he did not complete the initial RESEA meeting until August 8, 2024, and

he did not reach out to schedule his RESEA review until August 19, 2024, four days after the DUA notified him that he would not receive further benefits until completing that RESEA review. *See Consolidated Findings ## 10–14.*

Thereafter, the record shows that, even after finally starting his RESEA review on August 19, 2024, it took him another week to provide the Career Center with the necessary information to complete his review. *See Consolidated Finding # 14.* Nothing in the record indicates that there was a reason listed under 430 CMR 4.01(8)(b), which rendered the claimant unable to act more quickly to complete his RESEA review by the original deadline.

We, therefore, conclude as a matter of law that the claimant has failed to demonstrate good cause for not completing his RESEA review by the deadline, as required pursuant to G.L. c. 151A, § 25(a).

The review examiner's decision is affirmed. The claimant is denied benefits for the period August 4 through 24, 2024.

BOSTON, MASSACHUSETTS
DATE OF DECISION - January 16, 2025



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.

AB/rh