

**Board of Review
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**Paul T. Fitzgerald, Esq.
Chairman
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Member
Michael J. Albano
Member**

Issue ID: 0084 3836 07

Introduction and Procedural History of this Appeal

The claimant appeals a decision by a review examiner of the Department of Unemployment Assistance (DUA) denying the claimant's request to waive the repayment of overpaid benefits. We review, pursuant to our authority under G.L. c. 151A, § 41, and affirm.

The DUA initially determined that the claimant was entitled to unemployment benefits. However, on August 9, 2024, the agency redetermined the claimant's eligibility, concluding that she was not entitled to a portion of her benefits and was required to return the overpaid benefits pursuant to G.L. c. 151A, § 69(a). The claimant appealed and attended the hearing. In a decision rendered on February 6, 2025, the review examiner affirmed the overpayment, concluding that recovery of the overpayment would not defeat the purpose of 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 do note that the review examiner improperly assessed the claimant's eligibility for a waiver based on her gross monthly income rather than her net monthly income. Additionally, the review examiner neglected to include a portion of the claimant's transportation expenses, specifically gasoline for her car. These errors, however, do not affect the outcome. The claimant's pay stubs, entered as Exhibit # 20, accurately reflect evidence verifying her net monthly income. As these findings show, the claimant's net monthly income exceeds her monthly expenses, even when including the additional gasoline expense. We, therefore, agree with the review examiner's legal conclusion that recovery of the overpayment issues would not defeat the purpose of benefits otherwise authorized.

The review examiner's decision is affirmed. The claimant's request for a waiver of recovery of the overpaid benefits is denied. The claimant must repay \$6,056.00 to the DUA (or the remaining balance, if different) in overpaid benefits. We note that the claimant may reapply for an overpayment waiver should her financial circumstances change in the future.

BOSTON, MASSACHUSETTS
DATE OF DECISION - March 28, 2025



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.

MM/rh