

**Pursuant to G.L. c. 151A, § 71, the DUA must provide parties with an opportunity to present evidence before redetermining an award of benefits. The DUA's August 22, 2023, payment constituted a determination of the claimant's eligibility under § 25(a). A November 4, 2023, notice reversing the August 22<sup>nd</sup> award of benefits was actually a redetermination. Because the DUA did not afford the claimant a new opportunity to present evidence before issuing its redetermination, the claimant may not be disqualified pursuant to the redetermination.**

**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: 334-FHHM-KPFN**

### 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 March 5, 2023. He certified for benefits retroactively for the twelve-week period between April 23, 2023, through July 21, 2023, and was initially awarded benefits on August 22, 2023. On November 4, 2023, the DUA issued a Notice of Disqualification to the claimant in connection with his late certification and denied him benefits. The claimant appealed the determination to the DUA hearings department. Following a hearing on the merits, attended by both parties, the review examiner affirmed the agency's initial determination and denied benefits for the weeks of April 23, 2023, through July 21, 2023, in a decision rendered on April 5, 2025. We accepted the claimant's application for review.

Benefits were denied after the review examiner determined that the claimant had not shown good cause for failing to timely certify for benefits for the weeks of April 23, 2023, through July 21, 2023, and, thus, was disqualified during that period 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.

### Ruling of the Board

We need not decide whether the review examiner's decision to disqualify the claimant under G.L. c. 151A, § 25(a), was correct, because the DUA did not comply with the provisions of G.L. c. 151A, § 71, when it redetermined the claimant's eligibility for benefits in the November 4, 2023, Notice of Disqualification.

The unemployment statute imposes certain limits on the DUA's authority to redetermine a claimant's eligibility for benefits. G.L. c. 151A, § 71, provides, in relevant part, as follows:

The commissioner may reconsider a determination whenever he finds that (1) an error has occurred in connection therewith; or (2) wages of the claimant pertinent to such determination but not considered in connection therewith have been newly discovered; or (3) benefits have been allowed or denied or the amount of benefits fixed on the basis of misrepresentation of fact . . . . If the commissioner reconsiders a determination under this section, parties entitled to notice of the original determination *shall be afforded an opportunity for an interview before the commissioner or his authorized representative for the purpose of presenting evidence or refuting opposing positions before such a determination can be made.*

(Emphasis added.)

The DUA is prohibited from paying benefits without first determining that the claim is valid, including that the claimant had good cause for failing to timely certify for benefits. *See* G.L. c. 151A, §§ 25(a) and 39(a). In this case, the claimant requested late certifications for the twelve-week period at issue on July 26, 2023. The DUA issued payment for each of those weeks to the claimant on August 22, 2023. With its payment on that date, the DUA is deemed to have determined that the claimant had shown good cause for failing to timely certify for benefits. This means that the DUA's November 4, 2023, Notice of Disqualification was actually a redetermination.

In accordance with G.L. c. 151A, § 71, DUA policy requires that "the parties to the original determination must be offered an opportunity for an interview and to review and respond to any new information before a redetermination is made." DUA UI Policy and Performance Memo (UIPP) 2021.12, p. 3 (Dec. 15, 2021). In this case, review of agency records shows that the DUA last received information pertaining to the claimant's eligibility for benefits under G.L. c. 151A, § 25(a), when the claimant timely submitted a fact-finding questionnaire on July 27, 2023. Because nothing in the agency records indicates the DUA afforded the parties a new opportunity to present evidence after issuing the original determination, it did not have the authority to issue the November 4, 2023, redetermination.

We, therefore, conclude as a matter of law that, pursuant to G.L. c. 151A, § 71, the claimant may not be disqualified under G.L. c. 151A, § 25(a), for the period between April 23, 2023, and July 15, 2023, based on the November 4, 2023, Notice of Disqualification.

The review examiner's decision is reversed. The claimant is entitled to receive benefits for the period between April 23, 2023, through July 15, 2023, if otherwise eligible.

**BOSTON, MASSACHUSETTS**  
**DATE OF DECISION - June 30, 2025**



Paul T. Fitzgerald, Esq.  
Chairman



Charlene A. Stawicki, Esq.  
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](http://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