

The claimant, a native of El Salvador, established that pursuant to USCIS notices issued in 2024 and 2025, he was legally authorized to work in the United States during his benefit year. He is eligible for benefits under G.L. c. 151A, § 24(b).

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-FHHT-2TJK

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 we affirm in part and reverse in part.

The claimant filed a claim for unemployment benefits with the DUA, effective December 15, 2024, which was denied in a determination issued on April 4, 2025. 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 in a decision rendered on June 3, 2025, and awarded benefits during the period of December 15, 2024, through March 8, 2025, and denied benefits beginning March 9, 2025. We accepted the claimant's application for review.

Benefits were denied after the review examiner determined that the claimant did not establish that he was legally permitted to work in the United States after March 8, 2025. Thus, he concluded the claimant was not entitled to benefits under G.L. c. 151A, § 24(b). Our decision is based upon our review of the entire record, including the recorded testimony and evidence from the hearing, DUA's electronic record keeping system, the review examiner's decision, and the claimant's appeal.

The issue before the Board is whether the review examiner's decision, which concluded that the claimant's Temporary Protected Status (TPS) work authorization was not extended beyond March 8, 2025, and, therefore, the claimant has not proven that he was legally authorized to work in the United States pursuant to G.L. c. 151A, § 24(b), during part of his benefit year, 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. The claimant filed a claim for unemployment benefits effective December 15, 2024.
2. The claimant, who is originally from the El Salvador, possesses a United States Employment Authorization (EAD) card showing that he was authorized to work

in the United States from July 12, 2018, until September 9, 2019, under category A12.

3. On June 18, 2024, the United States Citizenship and Immigration Services (USCIS) issued a Notice of Action (the Notice) to the claimant. The Notice read, in relevant part, “Dear Temporary Protected Status (TPS) Beneficiary: [...] If your EAD with category A12 or C19 has one of the following expiration dates, your EAD is automatically extended through March 9, 2025: [...] Sept. 9, 2019. [...] This NOTICE OF CONTINUED EVIDENCE OF WORK AUTHORIZATION provides an automatic extension of your EAD through March 9, 2025. You may show your EAD with Category A12 or C19 and one of the expiration dates listed above along with this notice to any benefit-granting agency that accepts EADs or U.S. employer as proof of continued employment authorization through March 9, 2025.”
4. Sometime in early March 2025, the claimant filed for renewal of his EAD with USCIS.
5. As of June 2, 2025, the claimant has received no additional documents from USCIS which extend his EAD past March 9, 2025. His EAD renewal application is still pending.

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. After such review, the Board adopts the review examiner’s findings of fact except as follows. We clarify Finding of Fact # 3 to note that the Notice of Action not only extended the claimant’s employment authorization document (EAD), but it also extended the claimant’s TPS status and notified the claimant, a native of El Salvador, that he must re-register his TPS designation on or before March 9, 2025.¹ With respect to Finding of Fact # 4, we also add that the claimant filed an application to renew his TPS status under his country of designation at the same time.² In adopting the remaining findings, we deem them to be supported by substantial and credible evidence. However, as discussed more fully below, we disagree with the portion of the review examiner’s decision that denies benefits.

The review examiner determined that the claimant failed to provide documentation showing that his EAD was extended after March 9, 2025, and as such, the claimant did not show he was available for work beyond that date. In reaching this conclusion, the review examiner applied the state law provision under G.L. c. 151A, § 24(b), which provides, in pertinent part, as follows:

¹ The claimant’s Notice of Action, dated June 18, 2024, is Exhibit # 3. While not explicitly incorporated into the review examiner’s findings, this exhibit is part of the unchallenged evidence introduced at the hearing and placed in the record, and it is thus properly referred to in our decision today. *See Bleich v. Maimonides School*, 447 Mass. 38, 40 (2006); *Allen of Michigan, Inc. v. Deputy Dir. of Department of Employment and Training*, 64 Mass. App. Ct. 370, 371 (2005).

² The claimant’s testimony regarding the filing of his TPS renewal status is also part of the unchallenged evidence.

An individual, in order to be eligible for benefits under this chapter, shall . . . (b)
Be capable of, available, and actively seeking work in his usual occupation or any
other occupation for which he is reasonably fitted

As a state agency administering the unemployment insurance program, we must also abide by U.S. Department of Labor (DOL) regulations governing eligibility for unemployment insurance. These regulations require that a non-citizen must be legally authorized to work by the appropriate U.S. agency in order to be considered “available for work.” Specifically, 20 C.F.R. § 604.5 — Application — availability for work, provides, in relevant part, as follows:

(f) Alien status. To be considered available for work in the United States for a week, the alien must be legally authorized to work that week in the United States by the appropriate agency of the United States government. In determining whether an alien is legally authorized to work in the United States, the State must follow the requirements of section 1137(d) of the SSA (42 U.S.C. 1320b-7(d)), which relate to verification of and determination of an alien’s status.

Thus, in order to determine that the claimant was available for work under G.L. c. 151A, § 24(b), the claimant must show that, during his benefit year, he was legally authorized to work by the appropriate U.S. agency, currently the U.S. Citizenship and Immigration Services (USCIS) under the Department of Homeland Security (DHS).

The relevant period before us is the claimant’s benefit year. The DUA’s electronic record keeping system shows that the claimant’s benefit year runs from December 15, 2024, through December 13, 2025. We agree with the review examiner’s conclusion that the claimant was authorized to work in the United States during the period beginning December 15, 2024, through March 8, 2025, as this is supported by the evidence. However, we disagree with the portion of the review examiner’s decision that the claimant’s EAD under TPS status was not extended after March 8, 2025.

The claimant, a national of El Salvador, entered the United States under a TPS designation. *See* Finding of Fact # 1. His latest EAD card shows he was granted work authorization under an A12 category beginning July 12, 2018, with an expiration date of September 9, 2019. *See* Finding of Fact # 2. In a Notice of Action dated June 18, 2024, DHS extended the re-registration period for TPS designations for El Salvador through March 9, 2025. It also extended work authorization through March 9, 2025, for individuals with the A12 category whose EAD expired on September 9, 2019. *See* Findings of Fact ## 2 and 3.

However, DHS later granted further extensions for immigration status and work authorization for those with TPS from El Salvador, provided they timely re-registered and are otherwise eligible.

Specifically, on January 17, 2025, USCIS issued a notice granting an extension of TPS for 18 months, from March 10, 2025, through September 9, 2026, provided the individual re-registers during the period that runs from January 17, 2025, through March 18, 2025, and is otherwise eligible. *See* U.S. Citizenship and Immigration Services, “Extension of the Designation of El Salvador for Temporary Protected Status” 90 Fed. Reg. 5953-5954 (Jan. 17, 2025). Because the

claimant filed his application to renew his TPS under the designation of El Salvador prior to the re-registration expiration date, and we see nothing in the record that indicates the claimant failed to meet the eligibility requirements for continued TPS, the claimant has shown that he was legally permitted to be in United States through September 9, 2026. *See* Finding of Fact # 4.

Additionally, the Federal Register notice automatically extends the TPS related EAD for those who were already issued an EAD with a category code of A12 and with the “Card Expires” date of September 9, 2019.³ EAD cards with the September 9th expiration date are automatically granted continued work authorization through March 9, 2026, without any further action by the individual. To be eligible for the automatic extension, applicants renewing their TPS must timely re-register and apply for EADs within the re-registration period.

Finding of Fact # 2 shows that the claimant possessed a TPS related EAD (category A12) with a card expiration date of September 9, 2019. The findings also reflect that the claimant filed for renewal of his TPS and EAD in early March 2025. *See* Finding of Fact # 4.⁴ Based on these findings and the federal notices above, the claimant meets the eligibility requirements to receive the automatic work authorization extension. Thus, the claimant has shown that he was authorized to work in the United States through March 9, 2026.

In light of these government notices of extensions to the claimant’s TPS status and employment authorization, we are satisfied that the claimant has established authorization to work in the United States during the benefit year of his 2024 claim, the period of December 15, 2024, through December 13, 2025.

We, therefore, conclude as a matter of law that the claimant has met his burden to show that the USCIS has authorized him to work in the United States, as required pursuant to G.L. c.151A § 24(b).

The review examiner’s decision is affirmed in part and reversed in part. We affirm the portion of the review examiner’s decision rendering the claimant eligible for benefits for the period beginning December 15, 2024, through March 8, 2025. We reverse the portion of the review examiner’s decision that disqualified the claimant beginning March 9, 2025. The claimant is entitled to receive benefits during his benefit year from December 15, 2024, through December 13, 2025, if otherwise eligible.

³ The Federal Register notice also extends TPS related EAD for individuals with a category code of A12 who already have an EAD with a “Card Expires” date of, *inter alia*, March 9, 2025. The notice automatically extends EAD through March 9, 2026.

⁴ The claimant submitted two Forms I-797C, Notices of Action dated March 19, 2025, with his Board appeal. Although these two documents are not in evidence, the documents indicate that the claimant submitted his I-821 TPS re-registration application and his I-765 EAD application on or before March 14, 2025.

BOSTON, MASSACHUSETTS
DATE OF DECISION - August 29, 2025



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.

DY/rh