

**Where the claimant's net household income exceeds his ordinary and necessary monthly household expenses, he is not entitled to an overpayment waiver under G.L. c. 151A, § 69(c), as recovery of the overpaid benefits would not defeat the purpose of benefits otherwise authorized.**

**Board of Review  
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**Issue ID: 334-FHK5-LV5D**

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.

The claimant filed a claim for unemployment benefits with the DUA, effective August 4, 2024, and was initially awarded benefits. Subsequently, on January 10, 2025, the DUA determined that a portion of these benefits were overpaid. The claimant applied for a waiver of recovery of the overpayment, which the DUA denied in a determination issued on April 15, 2025. The claimant appealed the latter determination to the DUA hearings department. Following a hearing on the merits, attended by the claimant, the review examiner affirmed the agency's waiver determination and denied the claimant's request for an overpayment waiver in a decision rendered on May 20, 2025. We accepted the claimant's application for review.

The review examiner determined that recovery of the overpayment would not be against equity and good conscience or defeat the purpose of benefits otherwise authorized, and, thus, the claimant was not entitled to a waiver of the overpayment pursuant to G.L. c. 151A, § 69(c). 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 obtain additional information about the claimant's net monthly income. The claimant attended the remand hearing. 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 recovery of the overpayment at issue would not defeat the purpose of the benefits otherwise authorized because the claimant's monthly household income exceeded his ordinary and necessary monthly expenses, 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 are set forth below in their entirety:

1. On 4/22/25, the claimant requested a hearing on a denial of his application for a waiver of recovery of overpayment in the amount of \$1,624.
2. The claimant is married with two dependent children.
3. The claimant is currently employed full-time. His wife works full-time as well. The claimant provided biweekly paystubs from his employment for the month of October 2025 and biweekly paystubs from his wife's employment for the month of October 2024. After necessary deductions the claimant took home \$5,275.80 for the month of October 2025, the claimant's wife took home \$7,834.50 for the month of October of 2024.
4. The erroneous payment of benefits occurred as the result of a hearings decision reversing his original approval for unemployment benefits. The claimant did not misrepresent his situation to DUA. He accepted the benefits believing that he was entitled to them.
5. The claimant currently has \$20,000 in his savings and \$2,000 in his checking with no other assets except a 2019 Honda Passport valued at approximately \$20,000 and a 2023 Subaru WRX valued at approximately \$25,000.
6. The claimant's monthly living expenses are as follows: rent, \$3,000; heat and all other utilities, \$1,000; average food cost, \$1,200; auto insurance, \$90; transportation, \$400; clothing, \$300; rental insurance, \$120; car loan, \$1,000; non-medical expenses, \$50; other, \$200; charge cards with an unpaid balance of \$3,800, \$300; second credit card, \$1,800, \$300; student loan, \$19,000, \$500.
7. The claimant used the benefits, now determined to be overpaid, to pay a monthly credit card bill.
8. The claimant did not give up any right to other benefits when he was initially approved for unemployment benefits.

### 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. After such review, the Board adopts the review examiner's consolidated findings of fact except as follows. We reject the portion of Consolidated Finding # 3 that states that the claimant's net monthly income for October 2025 was \$5,275.80, and his wife's net monthly income for October 2024 was \$7,834.50, as it is inconsistent with the evidence. In adopting the remaining findings, we deem them to be supported by substantial and credible evidence. As discussed more fully below, we agree with the review examiner's legal conclusion that recovery of the overpayment at issue would not defeat the purpose of the benefits otherwise authorized or be against equity and good conscience.

The claimant's eligibility for a waiver is governed by G.L. c. 151A, § 69(c), which provides, in relevant part, as follows:

The commissioner may waive recovery of an overpayment made to any individual, who, in the judgment of the commissioner, is without fault and where, in the judgment of the commissioner such recovery would defeat the purpose of benefits otherwise authorized or would be against equity and good conscience.

The DUA regulations at 430 CMR 6.03 further define the phrases "against equity and good conscience" and "defeat the purpose of benefits otherwise authorized," as follows:

Against Equity and Good Conscience means that recovery of an overpayment will be considered inequitable if an overpaid claimant, by reason of the overpayment, relinquished a valuable right or changed his or her position for the worse. In reaching such a decision, the overpaid claimant's financial circumstances are irrelevant.

Defeat the purposes of benefits otherwise authorized means that recovery of the overpayment would deprive the overpaid claimant, or individuals dependent on the claimant, of income required for ordinary and necessary living expenses. This depends upon whether the overpaid claimant or his dependents have income or financial resources sufficient for more than ordinary and necessary needs or are dependent upon all current income for such needs. Ordinary and necessary living expenses include, but shall not be limited to:

- a. fixed living expenses, such as food and clothing, rent, mortgage payments, utilities, accident and health insurance, taxes, and work-related transportation expenses;
- b. medical and hospitalization expenses;
- c. expenses for the support of others for whom the individual is legally responsible;
- d. other miscellaneous expenses which may reasonably be considered as part of an individual's necessary and ordinary living expenses.

As the claimant did not give up any rights to obtain the now overpaid benefits and there is no indication that he changed his position for the worse as a result of receiving those benefits, recovery of the overpayment at issue would not be against equity and good conscience. *See Consolidated Finding # 8.*

We next consider whether recovery of the overpayment at issue would defeat the purpose of the benefits otherwise authorized. The claimant and his wife are both employed full-time and submitted paychecks showing their bi-weekly gross and net pay. Consolidated Findings ## 3 and 4. To ascertain both the claimant's and his wife's net monthly income, we multiply their net weekly earnings by 4.3, which is the average number of weeks per month. Information from the claimant's wife's paychecks from October, 2024, which were put forth as representative of her current net earnings and were admitted into evidence as Exhibits 5 and 6, shows that her net monthly income is approximately \$8,422.09. Information from the claimant's paychecks from

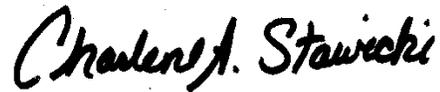
October, 2025, which were admitted into evidence as Exhibits 7 and 8, shows that the claimant's net monthly income is approximately \$5,671.49.<sup>1</sup> Therefore, the claimant's net monthly household income is approximately \$14,093.58 (\$8,422.09 + \$5,671.49).

Based on the information before us, the claimant's ordinary and necessary household expenses equal approximately \$8,460 a month. *See* Consolidated Finding # 6. Because the information that the claimant provided shows that his net monthly household income exceeds his ordinary and necessary household expenses, he has not shown that recovery of an overpayment would defeat the purpose of benefits otherwise authorized, as meant under 430 CMR 6.03.

We, therefore, conclude as a matter of law that the claimant has not met his burden to show that he is entitled to a waiver of overpaid benefits pursuant to G.L. c. 151A, § 69(c).

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 \$1,624.00 (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 - December 15, 2025**



Charlene A. Stawicki, Esq.  
Member



Michael J. Albano  
Member

**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.

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<sup>1</sup> Exhibits 5, 6, 7, and 8 are part of the unchallenged evidence introduced at the hearing and placed in the record and are 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).

LSW/rh