

Board of Review
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Issue ID: N6-F84M-P8M2

BOARD OF REVIEW DECISION

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 an increase to the claimant's Pandemic Unemployment Assistance (PUA) weekly benefit amount. We review, pursuant to our authority under G.L. c. 151A, § 41, and affirm.

The claimant filed a claim for PUA benefits with the DUA, effective February 2, 2020, which was approved in a Notice of Income Verification Determination issued on June 9, 2020. The claimant appealed the monetary determination to the DUA hearings department, as he was seeking an increase to his PUA weekly benefit amount based on his earnings in 2019. Following a hearing on the merits, the review examiner affirmed the agency's initial determination in a decision rendered on December 3, 2020, concluding that the claimant was eligible for only the minimum weekly benefit amount, as the claimant did not present sufficient evidence to verify his 2019 net income from self-employment. We 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 to deny an increase to the claimant's PUA weekly benefit amount is based on substantial evidence and is free from any error of law affecting substantive rights. We note, however, that the review examiner erred when she stated in the decision that the claimant did not submit a tax return to verify his net self-employment income in 2019. The claimant submitted his 2019 income tax return, including his Schedule C, to the DUA, and he reviewed the information in that document with the review examiner during the hearing.¹ The Schedule C shows that the claimant earned \$8,002.00 in net self-employment income in the 2019 calendar year.

Although the review examiner should have taken the claimant's 2019 Schedule C into consideration when making her decision in this case, her omission is a harmless error, as the claimant's earnings of \$8,002.00 in 2019 do not warrant an increase to his PUA weekly benefit amount. The yearly compensation upon which the minimum PUA weekly benefit amount of

¹ The claimant's 2019 Schedule C, while not explicitly incorporated into the review examiner's findings, 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).

\$267.00 is based on in Massachusetts is \$27,768.00, and only claimants who establish 2019 gross wages and / or net self-employment income greater than that amount will be eligible for an increase to their weekly benefit amount.²

The review examiner's decision is affirmed. The claimant is monetarily eligible for PUA benefits, but his weekly benefit rate and total PUA benefits shall not be recalculated.



Paul T. Fitzgerald, Esq.
Chairman

BOSTON, MASSACHUSETTS
DATE OF DECISION - June 4, 2021



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.

SVL/rh

² See U.S. Department of Labor Unemployment Insurance Program Letter (UIPL) 16-20, Change 1 (Apr. 27, 2020), p. I-4; UIPL No. 03-20, *Minimum Disaster Unemployment Assistance (DUA) Weekly Benefit Amount: January 1 – March 31, 2020*, (Dec. 12, 2019).