

**As part of her proof to verify her identity, the claimant submitted an expired driver's license. Because there is no indication that the driver's license was not validly issued, and the claimant provided other corroborating documentation with her photograph, address, birthdate, and Social Security number, held the claimant verified her identity with substantial and credible evidence. She may not be disqualified from receiving PUA benefits for this reason.**

**Board of Review  
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**Issue ID: N6- F956-VJLR**

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 Pandemic Unemployment Assistance (PUA) benefits. We review, pursuant to our authority under G.L. c. 151A, § 41, and reverse.

The claimant filed a claim for PUA benefits with the DUA, effective March 15, 2020, which was denied in a determination issued on August 21, 2020. The claimant appealed the determination to the DUA hearings department. Following a hearing on the merits attended by the claimant, the review examiner affirmed the agency's initial determination and denied PUA benefits in a decision rendered on February 22, 2022. We accepted the claimant's application for review.

Benefits were denied after the review examiner determined that the claimant did not meet the filing and registration requirement to verify her identity as the person who filed this PUA claim and, thus, she was disqualified 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.

The issue before the Board is whether the review examiner's decision, which concluded that the claimant was not eligible for PUA benefits because she did not provide a valid photo I.D., 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 Pandemic Unemployment Assistance (PUA) effective 3/15/2020.
2. The claimant received a determination letter that they were ineligible for PUA benefits due to identity verification on 8/20/2020.

3. The claimant did not submit a valid picture ID in the time given to them.

### 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 original conclusion is free from error of law. After such review, the Board adopts the review examiner's findings of fact except as follows. The date of August 20, 2020, in Finding of Fact # 2 is incorrect. Exhibit 3 shows the Notice of Non-Monetary Determination was issued on August 21, 2020.<sup>1</sup> We reject Finding of Fact # 3 because it is not supported by substantial evidence. In adopting the remaining findings, we deem them to be supported by substantial and credible evidence. As discussed more fully below, we disagree with the review examiner's legal conclusion that the claimant failed to provide substantial evidence validating her identity for purposes of meeting the registration and filing requirements under G.L. c. 151A, § 25(a).

The claimant in this case seeks PUA benefits, a new unemployment benefit program provided under the Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020, and administered by the U.S. Secretary of Labor.<sup>2</sup> In order to obtain PUA benefits, the claimant must follow many of the terms and conditions of state law that apply to claims for regular unemployment benefits.<sup>3</sup> This includes G.L. c. 151A, § 25(a), which provides, in relevant part, as follows:

No waiting period shall be allowed and no benefits shall be paid to an individual under this chapter for—(a) Any week in which he fails without good cause to comply with the registration and filing requirements of the commissioner. . . .

Also under the PUA program, the Secretary of Labor, through DOL advisories, directs states to disqualify any individual who makes a material misrepresentation in order to obtain the benefit.<sup>4</sup> To detect and prevent fraud, states are to use “such methods of administration as are, *within reason*, calculated (1) to detect benefits paid through error by the agency or through willful misrepresentation or error by the claimant or others, and (2) to deter claimants from obtaining benefits through willful misrepresentation.”<sup>5</sup> (Emphasis added.)

In this case, the issue presented to the review examiner was whether the claimant could demonstrate that she was the person who filed the claim and not an imposter, who may have borrowed or stolen an identity to fraudulently collect PUA benefits. The claimant appeared live on camera before the review examiner at the virtual hearing.

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<sup>1</sup> While not explicitly incorporated into the review examiners findings, Exhibit 3, as well as Exhibits 7-14 discussed below, are part of the unchallenged evidence introduced at the hearing and placed in the record. Thus, they are 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).

<sup>2</sup> Pub. L. 116-136 (Mar. 27, 2020), § 2102.

<sup>3</sup> See U.S. Department of Labor (DOL) Unemployment Insurance Program Letter (UIPL) 16-20 (Apr. 5, 2020), Attachment I, C(11)(c).

<sup>4</sup> See CARES Act § 2102(h); UIPL 16-20 (Apr. 5, 2020), 3, p. 2 and Attachment I, 13(h), p. I-12; and 20 C.F.R. § 625.14(i)(1)(i).

<sup>5</sup> Appendix C to [20 C.F.R.] Part 625 – Standard for Fraud and Overpayment Detection, paragraph 7511.

To authenticate her identity, the claimant presented photographic images of the front and back of a Massachusetts driver's license with her name, birthdate, and photograph. The license had expired on August 13, 2020. She also presented images of letters from the Social Security Administration (SSA) regarding an application for Supplemental Security Income with her name and address. One of the letters shows the claimant's birthdate and Social Security number. In addition, the claimant provided images of a current Disabled Persons Parking Identification Placard with her name and photograph, a 2019 Form W-2 with her name, address, and Social Security number, and a photograph of herself holding the driver's license.<sup>6</sup>

Finding of Fact # 3 states that the claimant did not submit a valid picture I.D. in the time frame given to them. This finding is based upon the review examiner's credibility assessment about the photo identifications presented. Such assessments are within the scope of the fact finder's role and unless they are unreasonable in relation to the evidence presented, they will not be disturbed on appeal. *See School Committee of Brockton v. Massachusetts Commission Against Discrimination*, 423 Mass. 7, 15 (1996). "The test is whether the finding is supported by 'substantial evidence.'" *Lycurgus v. Dir. of Division of Employment Security*, 391 Mass. 623, 627 (1984) (citations omitted). "Substantial evidence is 'such evidence as a reasonable mind might accept as adequate to support a conclusion,' taking 'into account whatever in the record detracts from its weight.'" *Id.* at 627-628, *quoting New Boston Garden Corp. v. Board of Assessors of Boston*, 383 Mass. 456, 466 (1981) (further citations omitted). Based upon the record before us, we cannot accept this finding.

While the claimant was unable to submit images of her green card by the deadline set by the review examiner,<sup>7</sup> the record already included an image of her driver's license, Exhibit 8. Although this driver's license had expired, there is nothing in the record to suggest that was not validly issued. Additionally, the claimant's current Disabled Persons Parking Identification Placard includes a photograph. *See* Exhibit 11. We assume that, if the review examiner found that the photographs on the license or parking placard did not resemble the person appearing before him at the hearing, he would have addressed this on the record or in his decision. He did not.

Moreover, the record contains multiple documents corroborating the name, address, birthdate, and Social Security number of the person who requested PUA benefits. The name on all of the documents that the claimant presented matches the name on the claim. The address on the SSA letters and on the 2019 Form W-2 match the address on the claim. *See* Exhibits 7, 9, 10, and 12. The birthdate on the driver's license and on the SSA letters matches the birthdate on the claim. *See* Exhibits 7, 8 and 9. The SSA letters and the 2019 Form W-2 also have a Social Security number that matches the Social Security number on the claim. *See* Exhibits 7, 9, and 12. There is nothing to suggest that these documents are not valid, and there is no indication in the record that the review examiner found them to be inauthentic.

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<sup>6</sup> These documents are entered into the record as Exhibits 7-13.

<sup>7</sup> During the hearing, the claimant explained she had lost her green card and therefore had not been able to renew her driver's license. She further testified that her new green card had been issued and was at her lawyer's office. The review examiner left the record open for two days to allow the claimant to submit images of the new green card. On the day after the hearing, the claimant submitted a letter stating she had not been able to obtain her green card because her lawyer was out of the office and requesting more time to submit it. This letter is entered into the record as Exhibit 14.

We, therefore, conclude as a matter of law that the claimant has produced substantial and credible evidence to verify her identity. She has met the registration and filing requirements for PUA benefits, as required under G.L. c. 151A, § 25(a).

The review examiner's decision is reversed. The claimant is entitled to PUA benefits for the week beginning March 15, 2020, and for subsequent weeks, if otherwise eligible.

**BOSTON, MASSACHUSETTS**  
**DATE OF DECISION - December 8, 2023**



Paul T. Fitzgerald, Esq.  
Chairman



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](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.

REB/rh