

Where the review examiner accepted as valid the claimant's Massachusetts driver's license and Social Security card, the claimant satisfied the identify verification requirements of the CARES Act. He is eligible for PUA benefits.

**Board of Review
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Issue ID: N6-F959-R2TJ

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 8, 2020, which was denied in a determination issued on June 9, 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 benefits in a decision rendered on October 21, 2020. 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 his identity as the person who filed this PUA claim and, thus, he was disqualified under G.L. c. 151A, § 25(a). 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 take additional testimony and evidence from the claimant. The claimant attended two remand hearings. 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 the claimant was ineligible for PUA benefits because he did not provide a valid Social Security card, 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. The claimant filed a claim for Pandemic Unemployment Assistance (PUA) with an effective date of March 8, 2020.
2. The claimant was issued a Notice of Non-Monetary Issue Determination Identity Verification on June 9, 2020.

3. The claimant has a valid Massachusetts Driver's License issued by the Registry of Motor Vehicles. The license expires on October 25, 2023 and was issued under the name [Full Name A].
4. The claimant has a valid social security card issued by the Social Security Administration. The card was issued under the name of [Full Name A].
5. The claimant has a completed 2019 1040 Form, U.S. Individual Income Tax Return [sic] and a completed 2019 Form 1, Massachusetts Resident Income Tax Return, which reflects his name as [Name A – Middle Initial] and lists the social security number issued to him as reflected on his social security card. The tax forms are not signed by the claimant and do not reflect a date.
6. Since July 30, 2020, the claimant has lived at a homeless shelter located at [Address A].

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 original 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 note that where Consolidated Finding # 5 indicates the claimant has a completed 2019 1040 Form U.S. Individual Income Tax Return, closer review of the record shows the claimant actually submitted two different, unsigned 2019 Form 1040 tax documents, one reporting \$131.00 for 2019 earnings, and another reporting \$2,400.00 in earnings for 2019. *Compare* Hearings Exhibit # 3 and Remand Exhibit # 10. Thus, we reject as unsupported by substantial and credible evidence the part of Consolidated Finding # 5, which indicates that the claimant has provided a completed 2019 Form 1040. In adopting the remaining portions of the findings, we deem them to be supported by substantial and credible evidence. As discussed more fully below, we disagree with the review examiner's initial conclusion that the claimant failed to provide substantial and credible evidence to validate his 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.¹ 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.² 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.

¹ Pub. L. 116-136 (Mar. 27, 2020), § 2102.

² See U.S. Department of Labor (DOL) Unemployment Insurance Program Letter (UIPL) 16-20 (Apr. 5, 2020), Attachment I, C(11)(c).

Also under the PUA program, the Secretary of Labor, through U.S. Department of Labor (DOL) advisories, directs states to disqualify any individual who makes a material misrepresentation in order to obtain the benefit.³ 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.”⁴ (Emphasis added.)

In this case, the issue presented to the review examiner was whether the claimant could demonstrate that he was the person who filed a claim and not an imposter, who may have borrowed or stolen an identity to fraudulently collect PUA benefits. The claimant initially appeared in person before the review examiner and appeared before her virtually at the remand hearings.

To authenticate his identity, he presented a birth certificate showing his full name and birth date of October 25, 1980, and a valid Massachusetts driver’s license issued by the Registry of Motor Vehicles, which has a photograph of the claimant and expires on October 25, 2023. *See* Consolidated Finding # 3. The review examiner initially denied benefits, however, because the claimant was unable to produce a valid Social Security card in his name.

After remand, the review examiner took into evidence the Social Security card produced by the claimant and found that he has a valid Social Security card. *See* Consolidated Finding # 4 and Remand Exhibit # 8.

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

³ *See* CARES Act § 2102(h); UIPL 16-20, 3, p. 2 and Attachment I, 13(h), p. I-12; 20 C.F.R. § 625.14(i)(1)(i).

⁴ Appendix C to [20 C.F.R.] Part 625 – Standard for Fraud and Overpayment Detection, paragraph 7511.

The review examiner's decision is reversed. The claimant is entitled to PUA benefits for the week beginning February 23, 2020, and for subsequent weeks if otherwise eligible.

BOSTON, MASSACHUSETTS
DATE OF DECISION - June 9, 2021



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.

JPCA/rh