

Claimant, who had produced a valid Massachusetts Identification card issued by the RMV during his virtual hearing, but who failed to provide a copy of his Social Security card to verify his identity, subsequently provided his Social Security card and birth certificate. Held claimant verified his identity with substantial and credible evidence.

**Board of Review
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Issue ID: N6-FDKV-6NTF

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 26, 2020. The claimant appealed the determination to the DUA hearings department. Following a hearing on the merits, attended virtually by the claimant, the review examiner affirmed the agency's initial determination and denied benefits in a decision rendered on January 8, 2021. 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 make subsidiary findings from the record. Thereafter, the review examiner issued his 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).
2. The claimant was issued a Notice of Non-Monetary Issue Determination--- Identity Verification dated June 26, 2020.

3. The claimant has a Massachusetts Identification Card issued by the Massachusetts Registry of Motor Vehicles with an expiration date of September 8, 2023.
4. The claimant has a social security card that was issued by the Social Security Administration (SSA). The claimant's last four digits of his social security number is [sic] [XXXX].
5. The claimant has a certified birth record of his birthdate that was issued by the Department of Health Demographic Registry, Commonwealth of Puerto Rico.

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. Upon such review, the Board adopts the review examiner's consolidated findings of fact and deems them to be supported by substantial and credible evidence. However, as discussed more fully below, we disagree with the review examiner's legal conclusion that the claimant failed to provide substantial evidence validating his identify for purposes of meeting the registration and filing requirements under G.L. 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.

Also under the PUA program, the U.S. 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.)

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).

³ See CARES Act § 2102(h); UIPL 16-20, 3, p. 2 and Attachment I, 13(h), pp. 1-12; 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.

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 appeared before the review examiner through a virtual hearing.

To authenticate his identity, the claimant presented a Massachusetts Identification Card issued by the Massachusetts Registry of Motor Vehicles, with an expiration date of September 8, 2023. The claimant did not produce a Social Security card or birth certificate, and the review examiner held the record open so that the claimant could submit proof of his Social Security number. Thereafter, the review examiner denied PUA benefits because the claimant had not provided substantial and credible evidence of his Social Security number and concluded that the claimant had not verified his identification.

The claimant uploaded the requested documentation — the front and back of his Social Security card, along with a certified record of his birth by the Commonwealth of Puerto Rico — with his appeal to the Board. We, in turn, remanded the case back to the review examiner to review the documents submitted by the claimant on appeal, and to issue subsidiary findings (if necessary). The review examiner entered the documents into evidence as Exhibits ## 11–14, revised his initial findings, and found that the claimant provided a valid Social Security number⁵ and birth certificate. *See Consolidated Findings ## 4–5.*

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).

⁵ We take administrative notice that the Social Security number on the card submitted with the claimant's appeal matched the Social Security number he recited under oath during the hearing.

The review examiner's decision is reversed. The claimant is entitled to PUA benefits for the week beginning March 8, 2020, and for subsequent weeks if otherwise eligible.



Paul T. Fitzgerald, Esq.
Chairman

BOSTON, MASSACHUSETTS
DATE OF DECISION - March 12, 2021



Charlene A. Stawicki, Esq.
Member

Member Michael J. Albano 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