

Board of Review
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Issue ID: N6-FJV7-HMT8

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). 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 March 15, 2020, which was denied in a determination issued on November 17, 2020. The claimant appealed the determination to the DUA hearings department. Following a hearing on the merits, the review examiner affirmed the agency's initial determination in a decision rendered on February 23, 2021, concluding that the claimant had failed to establish that he was unemployed for a COVID-19 listed reason under the Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020, and, thus, the claimant was not eligible for PUA. 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 is based on substantial evidence and is free from any error of law affecting substantive rights.

Under the CARES Act, a PUA claimant must be a "covered individual," which includes applicants scheduled to commence employment but who lose a job due to the COVID-19 pandemic. CARES Act of 2020, § 2102(a)(3)(A)(ii)(I)(gg). This has been interpreted to mean a *bona fide* offer of employment. The claimant here has not met his burden of establishing he had a concrete offer of employment in Massachusetts, nor that any such offer was rescinded due to the pandemic.

The claimant provided evidence of work outside of Massachusetts, which allegedly ended due to the pandemic. However, a claimant can only seek PUA in the state where ongoing or prospective work was affected by the pandemic. *See* Unemployment Insurance Program Letter (UIPL) 16-20, Change 1 (Apr. 27, 2020), pg. I-3. Because the record indicates that the claimant was working at a business in Vermont at the time his employment was affected by the COVID-19 pandemic, he may be eligible to file a PUA claim in Vermont.

The review examiner's decision is affirmed. The claimant is not entitled to receive PUA benefits as of the week beginning March 15, 2020.



BOSTON, MASSACHUSETTS
DATE OF DECISION - October 6, 2021

Paul T. Fitzgerald, Esq.
Chairman



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.

MS/rh