

Board of Review
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Issue ID: N6-FJV7-NTLK

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 the claimant Pandemic Unemployment Assistance (PUA) benefits in connection with a claim filed in Massachusetts, effective February 2, 2020. We review, pursuant to our authority under G.L. c. 151A, § 41, and affirm.

On November 13, 2020, the agency determined that the claimant was not entitled to PUA benefits. The claimant appealed and attended the hearing. In a decision rendered on March 25, 2021, the review examiner affirmed the agency determination, concluding that the claimant did not show that he was working or going to be working in Massachusetts in 2020 nor that a COVID-19 circumstance prevented him from working and, thus, he was ineligible for PUA benefits under § 2102 of the Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020. The Board 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 benefits is based on substantial evidence and is free from any error of law affecting substantive rights, because the claimant did not show that a listed COVID-19 reason prevented him from working in Massachusetts. *See* CARES Act of 2020, Pub. L. 116-136 (Mar. 27, 2020), § 2102(a)(3)(A)(ii)(I)(aa)-(kk).

The hearing decision states that the claimant had no work in Massachusetts and has not lived in Massachusetts. In his appeal to the Board, the claimant asserts he previously worked remotely from his home in [City A], Illinois for a Massachusetts company, and that he collected unemployment insurance benefits from Massachusetts. Upon review of the record, the evidence shows that the claimant worked in 2019 for a Massachusetts company and that the claimant received unemployment benefits from Massachusetts beginning in June 2019. However, this does not affect the validity of the review examiner's decision because the claimant has not shown that he was prevented from working in Massachusetts due to a COVID-19 reason. The claimant testified that his employment with [Company A] was terminated in April 2019.

To be eligible for PUA benefits, a claimant must show that they are "otherwise able and available for work...except the individual is unemployed, partially unemployed, or unable or unavailable to work because..." of a listed COVID-19 reason. *See* CARES Act, § 2102(a)(3)(A)(ii)(I). The

claimant has not shown that any of the enumerated COVID-19 reasons prevented him from working in Massachusetts. By his testimony, his remote work in the state concluded before the onset of the COVID-19 public health emergency. The claimant therefore has not met the eligibility requirements set forth in the CARES Act of 2020, § 2102.

The review examiner's decision is affirmed. The claimant is denied PUA benefits under his Massachusetts PUA claim beginning the week ending February 8, 2020.

BOSTON, MASSACHUSETTS
DATE OF DECISION - November 29, 2021



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

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.

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