

Claimant established his identity with photographs and valid, unexpired government documents as the person who filed the PUA claim.

**Board of Review
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Issue ID: N6-FTF3-6L54

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 12, 2020, which was denied in a determination dated December 18, 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 and denied PUA benefits in a decision rendered on February 22, 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, the claimant 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 for additional evidence pertaining to the claimant's proof of identity. The claimant attended the remand hearing. 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 had not proven his identity, and therefore was not eligible to receive PUA benefits, 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 and credibility assessment 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 Redetermination Identity Verification dated December 18, 2020.

3. The claimant has a valid Massachusetts driver's license issued by the Massachusetts Registry of Motor Vehicles on February 22, 2021, with an expiration date of July 29, 2025.
4. The claimant has a valid United States passport issued by the United States Department of State issued on August 4, 2017, with an expiration date of August 3, 2027.
5. The claimant has a valid social security card from the Social Security Administration. The claimant's name is clearly printed on the card and is consistent with his name as listed on his driver's license and passport.
6. The claimant is currently residing in the same hotel he has been living in since April 20, 2020.
7. The claimant has an invoice from the hotel he has been living at, for the month of September of 2021. The address on the invoice is the same address listed on the claimant's driver's license.
8. The claimant's date of birth is the same on the driver's license and passport.
9. The photographs of the claimant in both his driver's license and passport are a fair and accurate likeness of the claimant as he appeared in the hearing on September 28, 2021.

Credibility Assessment:

The claimant and his documentation are deemed to be credible. The claimant's testimony is corroborated by the documentation that he presented both prior to, and during, his Remand Hearing.

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. 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. We further believe that the review examiner's credibility assessment is reasonable in relation to the evidence presented. As discussed more fully below, we disagree with the review examiner's legal conclusion that the claimant is ineligible for PUA benefits.

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

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

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 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 claimant has demonstrated his identity. He presented photographic self-portraits in which he is holding documents that include his likenesses and he appeared virtually at a hearing with his documents. The review examiner found that the photographs matched his appearance. *See Consolidated Finding # 9.* The documents also present the same date of birth as on his claim. *See Consolidated Finding # 8.* The claimant produced a Social Security Card, as well as a passport and Massachusetts driver's license with his identifying information and photograph. *See Consolidated Findings ## 3–5.* Moreover, the claimant produced recent and historical invoices for a hotel, whose address appears on his license and at which the claimant currently lives. *See Consolidated Finding # 7.* The record now includes substantial evidence that the claimant is the person who filed this PUA claim.

We, therefore, conclude as a matter of law that the claimant has met his burden to confirm his identity pursuant to G.L. c. 151A, § 25(a), the CARES Act, § 2102, and DOL regulations promulgated thereunder.

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

BOSTON, MASSACHUSETTS
DATE OF DECISION – January 6, 2022



Paul T. Fitzgerald, Esq.
Chairman



Charlene A. Stawicki, Esq.
Member

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

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

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

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