

**The claimant's documents support her testimony that she had a summer camp job offer in Massachusetts in 2020, which was revoked due to the COVID-19 public health emergency. She is entitled to PUA benefits under her Massachusetts claim.**

**Board of Review  
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**Issue ID: N6-H2RV-6LLR**

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 May 17, 2020, which was denied in a determination issued on November 19, 2020. She had received weekly benefits from the week ending July 13, 2020, to the week ending August 24, 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 October 4, 2021. We accepted the claimant's application for review.

The review examiner affirmed the disqualification, holding that the claimant failed to show that she had a Massachusetts job offer during 2020 which was revoked due to COVID-19. 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 to consider employment documents submitted with the claimant's appeal to the Board. Because it was necessary to obtain further evidence regarding the start and end dates of the claimant's employment, the case was remanded a second time. The claimant attended both remand hearings. Thereafter, the review examiner issued her consolidated findings of fact and credibility assessment. 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was ineligible for PUA benefits because she failed to prove that she had a Massachusetts job offer during 2020 which was revoked at the time of the COVID-19 public health emergency, is supported by substantial and credible evidence and is free from error of law.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) which was determined to be effective May 17, 2020.
2. The claimant is a resident of Massachusetts and was last employed at a summer camp in Massachusetts in 2019. The claimant was issued a 2019 W-2 from the summer camp for her employment in 2019.
3. At the time the claimant left her summer employment in 2019, she received a verbal offer of employment from the employer for the summer of 2020.
4. The employer and the claimant agreed that she would be returning to the camp for the 2020 summer with a possible promotion to soccer coach, and the claimant was offered housing at the camp in exchange for additional responsibilities of taking care of overnight campers.
5. The employer would have re-hired the claimant for the 2020 summer camp, but the program was shut down because of the COVID-19 pandemic.
6. The employer did not issue the claimant a formal contract for employment in May 2020 because the program was shut down.
7. The employer did not provide the claimant with information about her remuneration for the summer 2020 work because employer could not offer her a contract because the camp was shut down.
8. In 2019, the claimant earned \$740.00 bi-weekly in gross wages from her summer camp employment with the employer.
9. No formal start date or end date for the 2020 camp was provided to the claimant by the employer as the dates were unknown at that time.
10. The 2019 camp was for a six-week period, ending at the end of August 2019. The employer did not notify the claimant until June 2019, that her employment would start in July 2019.
11. On November 19, 2020, the Department of Unemployment Assistance (DUA) sent the claimant a Notice of Non-Monetary Issue Determination informing her she was not eligible for PUA benefits beginning the week of February 8, 2020, because she did not meet the eligibility requirements under Section 2102 of the CARES Act of 2020, Public Law 116-136.
12. The claimant timely appealed the DUA's November 19, 2020, determination.

Credibility Assessment:

The claimant offered credible testimony that she discussed her employment for the summer of 2020 with the employer prior to the end of her 2019 employment. The claimant credibly testified that she and the employer had an agreement that the claimant would return for the 2020 summer camp with an offer of housing in exchange for staying with the overnight campers, as well as a possible promotion to soccer coach. The claimant offered credible testimony that there was no discussion of her pay, or as to the start or end dates of her 2020 employment because the employer did not have that information available at the end of the 2019 camp. The claimant credibly testified that when she worked at the camp in 2019, the employer gave her one month's notice prior to her start date, that the camp was for a six-week period, ending at the end of August 2019, and that her pay for 2019 was approximately \$740.00 bi-weekly.

### 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 failed to prove that she is eligible for PUA benefits under her Massachusetts claim.

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.<sup>1</sup>

In order to qualify for PUA benefits, the claimant must show that she is a covered individual within the meaning of the CARES Act. Among the criteria for eligibility is § 2102(a)(3)(A)(ii)(I)(gg) of the CARES Act, which provides that an individual will be eligible for PUA benefits if he or she was "scheduled to commence employment and does not have a job or is unable to reach the job as a direct result of the COVID-19 public health emergency." Further, a claimant must file for PUA benefits in the state where he or she was working at the time he or she became unemployed.<sup>2</sup> Therefore, in order to be eligible for benefits, the claimant must show that she had work in Massachusetts that was negatively affected for a listed COVID-19 reason.

The claimant satisfied the requirement to show that she had a pending job offer for 2020 work in Massachusetts that was revoked due to COVID-19. The consolidated findings provide that the claimant had worked in a summer camp in 2019 and her employer would have re-hired her for the 2020 summer camp, but the program was shut down because of the COVID-19 pandemic. *See Consolidated Findings ## 2 – 5*. The employer and the claimant agreed that she would be returning

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<sup>1</sup> Pub. L. 116-136 (Mar. 27, 2020), § 2102.

<sup>2</sup> *See* U.S. Department of Labor Unemployment Insurance Program Letter (UIPL)16-20, Change 1 (Apr. 27, 2020), Attachment I, B(7), p. I-3.

to the camp for the 2020 summer with a possible promotion to soccer coach, and the claimant was offered housing at the camp in exchange for additional responsibilities of taking care of overnight campers. *See Consolidated Finding # 4.* These facts show that the claimant was scheduled to commence employment and did not have a job as a direct result of the COVID-19 public health emergency.

At the time the 2020 summer camp decided not to run, the employer had not provided a formal start date or end date for the summer employment, because the dates were unknown at that time. *See Consolidated Finding # 9.* In 2019, the employer did not notify the claimant until June that her employment would start in July. We can reasonably infer when she would have started and ended her 2020 employment by looking at the dates of the 2019 camp schedule, a six-week period running until the end of August 2019. *See Consolidated Finding # 10.* In 2020, this schedule would correspond to the weeks July 19, 2020, through August 29, 2020.

We, therefore, conclude as a matter of law that the claimant has demonstrated that she was out of work for the COVID-19 listed reason under the CARES Act, § 2102(a)(3)(A)(ii)(I)(gg).

The review examiner's decision is reversed. The claimant is entitled to receive PUA benefits for the week beginning July 19, 2020, through week ending August 29, 2020.

**BOSTON, MASSACHUSETTS**  
**DATE OF DECISION - March 10, 2022**



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](http://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.

BGM/rh