

**The claimant presented documentary evidence verifying that she performed cleaning work in Massachusetts in 2019 and early 2020, prior to the effective date of her PUA claim. Therefore, she met her burden to substantiate employment within the meaning of the Continued Assistance Act and is eligible for continued PUA benefits.**

**Board of Review  
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**Paul T. Fitzgerald, Esq.  
Chairman  
Charlene A. Stawicki, Esq.  
Member  
Michael J. Albano  
Member**

**Issue ID: N6-H54F-J472**

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 initially approved. However, in a determination issued on May 12, 2021, the DUA denied benefits beginning December 27, 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 January 13, 2022. We accepted the claimant's application for review.

Benefits were denied after the review examiner determined that the claimant had failed to meet the eligibility requirements to substantiate employment, self-employment, or planned commencement of employment or self-employment, and, thus, the claimant was not eligible for PUA benefits. 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 obtain additional evidence pertaining to the claimant's employment status in 2019 and 2020. The claimant attended the remand hearing. Thereafter, the review examiner issued her 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 did not meet her burden to substantiate employment or self-employment because she failed to provide any documentation showing she worked or was going to be working in Massachusetts in 2019 or 2020, 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 an application for Pandemic Unemployment Assistance (PUA) with an effective date of March 8, 2020. The Department of Unemployment Assistance (DUA) determined her weekly benefit amount to be \$267.00.
2. The claimant became self-employed as the owner of a cleaning business in 2006.
3. In 2006, the claimant began servicing a large client, a real estate company who specialized in the construction of residential properties. The claimant would clean these properties after construction or renovations were completed. The claimant continued to operate her business and service this client from 2006 through 2020.
4. The claimant took on another large client in 2010. This client owned a factory with a store or café. The claimant cleaned the factory bathrooms and the store on a weekly basis in 2019 and 2020. The claimant continued to service this client from 2010 through 2020.
5. The claimant's clients paid her by check. She would take pictures of the checks she received and make mobile electronic deposits into her business checking account. The claimant has business banking statements that provide a sampling of these mobile and check deposits.
6. In 2019, the claimant charged her clients approximate \$1,200 per week for her services. The claimant later increased her fees to \$1,350 per week for cleaning services.
7. The claimant has a 2019 1040 tax return with a Schedule C reporting gross income of \$66,100 and net income of \$20,729 after expenses.
8. The claimant has a 2020 1040 tax return with a Schedule C reporting gross income of \$58,395 and net income of \$10,933 after expenses.
9. The claimant has business records from 2019 and 2020, which include bank statements and a letter of reference from her real estate client.
10. The claimant was self-employed in 2019 and 2020. The claimant did not earn any W-2 wages in 2019 or 2020.
11. Aside from the work she performed for her two large clients, the claimant did not service any other clients in 2019 or 2020.
12. The claimant's cleaning business continued servicing these two large clients in 2021.

Credibility Assessment:

The claimant's credible testimony and documents, including her tax returns and client letter, show that she was self-employed as the owner operator of a cleaning business between January 2019 and March 8, 2020.

### 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. However, as discussed more fully below, we disagree with the review examiner's legal conclusion that the claimant failed to meet the eligibility requirement to substantiate employment or self-employment.

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> Pursuant to the Continued Assistance for Unemployed Workers Act (Continued Assistance Act), any claimant who files a new application for PUA benefits on or after January 31, 2021, or any claimant who receives a payment of PUA benefits on or after December 27, 2020, is required to provide documentation substantiating employment, self-employment, or planned commencement of employment or self-employment<sup>2</sup> at some point between the start of the applicable tax year and the effective date of the claim.<sup>3</sup> There is no requirement that such documentation relate to work the claimant lost because of COVID-19.

The claimant filed for PUA benefits on May 12, 2020, effective March 8, 2020. *See* Consolidated Finding # 1. Therefore, she was required to present documentation to substantiate employment, self-employment or planned commencement of employment or self-employment at some time between January 1, 2019, and March 8, 2020.

The claimant presented documentary evidence verifying that she worked as a self-employed cleaner in 2019 and 2020, and this is now reflected in the review examiner's consolidated findings. *See* Consolidated Findings ## 2-5, and 7-10. This satisfies the claimant's burden to substantiate her employment during the relevant period.

We, therefore, conclude as a matter of law that the claimant met the eligibility requirement to substantiate employment or self-employment within the meaning of the Continued Assistance Act.

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

<sup>2</sup> Pub. L. 116-260 (Dec. 27, 2020), § 241.

<sup>3</sup> *See* U.S. Department of Labor Unemployment Insurance Program Letter (UIPL) 16-20, Change 4 (Jan. 8, 2021), 4(b), p. 5, and Attachment I, C(2)(b), p. I-11.

The review examiner's decision is reversed. The claimant is entitled to continue receiving PUA benefits for the week beginning December 27, 2020, and for subsequent weeks if otherwise eligible.

**BOSTON, MASSACHUSETTS**  
**DATE OF DECISION - August 9, 2023**



Charlene A. Stawicki, Esq.  
Member



Michael J. Albano  
Member

Chairman Paul T. Fitzgerald, 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.

JCT/rh