

The claimant provided documentary evidence that she had planned commencement of employment at a ballpark concession prior to the effective date of her PUA claim. This satisfied the Continued Assistance Act requirement to show a recent attachment to the labor force. She is entitled to further PUA benefits.

**Board of Review
100 Cambridge Street, Suite 400
Boston, MA 02114
Phone: 617-626-6400
Fax: 617-727-5874**

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

Issue ID: N6-H54N-FJP9

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 April 5, 2020. On May 19, 2021, the DUA sent the claimant a determination informing her that she was not eligible to receive PUA benefits as of the week ending January 2, 2021. 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 January 18, 2022. We accepted the claimant's application for review.

Benefits were denied after the review examiner determined that the claimant failed to provide documentation substantiating employment, self-employment, or the planned commencement of employment or self-employment, as required by § 241 of the Continued Assistance Act.¹ 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 an employment document submitted with the claimant's appeal to the Board. The claimant attended the remand hearing. 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 beginning January 2, 2021, because she failed to present documentation of work or the planned commencement of employment at concessions in a facility prior to the effective date of her claim, is supported by substantial and credible evidence and is free from error of law.

Consolidated Findings of Fact

¹ Continued Assistance for Unemployed Workers Act of 2020, Division N, Title II, Subtitle A of the Consolidated Appropriations Act, 2021 (Dec. 27, 2020).

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) with an effective date of April 5, 2020.
2. The claimant's weekly benefit amount is \$267.
3. The claimant did not work in 2019.
4. On February 22, 2020, the claimant received an offer to work at a concession stand at a professional baseball field in Massachusetts. Her job title was going to be Stand Lead Worker.
5. The claimant's start date was going to be March 10, 2020, and her rate of pay was going to be \$109.74 per shift.
6. The baseball season was cancelled in early March 2020 due to COVID-19 and the claimant's job offer was rescinded.
7. A background check was required to be completed prior to the claimant starting the position.
8. Nothing would appear on the claimant's background check that might cause the employer to consider not hiring her.

Credibility Assessment:

The claimant credibly testified that she had an offer to work at a concession stand March 10, 2020, prior to the effective date of her claimant for PUA benefits. The claimant's offer letter, titled "Employment Details Letter," confirms her rate of pay, start date, and other relevant employment information such as completion of a background check and when she was going to be paid. The offer letter is authentic. The email from the employer stating COVID-19 caused revocation of the job offer is also authentic because it contains a signature line with the human resource individual's credentials and contact information. It is also logical that concessions would be cancelled due to the COVID-19 pandemic, as it is widely known that the baseball season was cancelled in March 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. As discussed more fully below, we reverse the review examiner's legal conclusion that the claimant is ineligible for PUA benefits.

The claimant in this case seeks PUA benefits, an 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.² In December 2020, Congress added an additional requirement for individuals to continue receiving PUA benefits. Individuals who applied for PUA benefits and received a payment of PUA on or after December 27, 2020, must provide documentation substantiating employment, self-employment, or the planned commencement of employment or self-employment.³ The documentation must establish one of these at some point between the start of the applicable tax year and the PUA claim effective date.⁴ It is intended to show a recent attachment to the labor force and to prevent fraud.⁵

Here, the claimant asserted that she had planned to start a job between the prior tax year and the effective date. The claimant's effective date is April 5, 2020. Therefore, she must show proof of this planned commencement of employment at some point between January 1, 2019, and April 5, 2020.

After remand and considering the additional document which the claimant submitted with her Board appeal, the review examiner issued findings that the claimant had planned to begin new employment before the effective date. *See Consolidated Findings ## 4 and 5.* The review examiner's rationale was that the document produced with the claimant's Board appeal (the Employment Details Letter) confirmed that she did have work scheduled to begin before the effective date. We agree.

This provides the claimant with the necessary documentary evidence of the planned commencement of employment within the required period.

We, therefore, conclude as a matter of law that the claimant has met her burden to present substantial and credible documentary evidence substantiating employment, self-employment, or the planned commencement of either, as required by the Continued Assistance Act, § 241.

² Pub. L. 116-136 (Mar. 27, 2020), § 2102.

³ *See* U.S. Department of Labor Unemployment Insurance Program Letter (UIPL) 16-20, Change 4 (Jan. 8, 2021), 4(b)(ii), p. 5.

⁴ *See* UIPL 16-20, Change 4, Attachment I, C(1), p. I-4.

⁵ *See* UIPL 16-20, Change 4, Attachment I, C(2), p. I-10.

The review examiner's decision is reversed. The claimant is eligible for PUA benefits beginning April 5, 2020, and for subsequent weeks if otherwise eligible.

BOSTON, MASSACHUSETTS
DATE OF DECISION - August 24, 2023



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.

BGM/rh