

**The only documentary evidence the claimant provided to substantiate her employment in 2020 was a screenshot of mobile payments made to someone other than the claimant. The claimant was unable to provide other contemporaneous evidence verifying that she worked as a nanny during the relevant period. Because she did not meet her burden to substantiate employment as required by the Continued Assistance Act, she is ineligible for further PUA benefits.**

**Board of Review  
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**Issue ID: N6-H54P-H78L**

### 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 affirm.

The claimant had filed a claim for PUA benefits, effective March 15, 2020, which was initially approved. However, in a determination issued on July 6, 2021, she was disqualified for further PUA 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 in a decision rendered on January 14, 2022. The claimant sought review by the Board, which affirmed, and the claimant appealed to the District Court pursuant to G.L. c. 151A, § 42.

On August 2, 2022, the District Court ordered the Board to obtain further evidence. Consistent with this order, we remanded the case to the review examiner to take additional evidence concerning mobile payment application documents purporting to show the claimant's employment in 2020. The claimant attended the remand hearing. Thereafter, the review examiner issued her consolidated findings of fact.

The issue before the Board is whether the review examiner's decision, which concluded that claimant did not meet her burden to substantiate employment or self-employment because she failed to provide any documentation showing that she worked or was going to be working as a nanny during the relevant period, is supported by substantial and credible evidence and is free from error of law.

After reviewing the entire record, including the recorded testimony and evidence from the hearing, the review examiner's decision, the claimant's appeal, the District Court's Order, and the consolidated findings of fact, we affirm the review examiner's decision.

### Findings of Fact

The review examiner's consolidated findings of fact and credibility assessment, which were issued following the District Court remand, are set forth below in their entirety:

1. The claimant filed a claim for PUA benefits, with an effective date of March 15, 2020. The Department of Unemployment Assistance (DUA) determined that the claimant has a benefit rate of \$267 per week on the claim.
2. On July 6, 2021, the DUA sent the claimant an Employment Substantiation Notice of Non-Monetary Issue Determination, informing her that she was not eligible to receive benefits beginning the week ending January 2, 2021. The claimant appealed this Determination.
3. The claimant did not work in 2019.
4. The claimant did not have a job offer in 2019.
5. The claimant did not work in 2020.
6. In 2020, the claimant did not have a job offer for work to begin on or before March 15, 2020.

#### Credibility Assessment:

The claimant's testimony was vague. She did not testify credibly, and she failed to provide sufficient corroborating documentation regarding her 2020 employment.

The claimant submitted screenshots of a mobile payment app for an account not in her name. The claimant alleged that this was her husband's account, and that the payments made to the account were meant for her, not her husband. This account shows payments made on February 25, 2020, March 10, 2020, March 17, 2020, and March 19, 2020. The payments do not explicitly state that they were for nanny services, or that they were meant for the claimant, not the husband. Absent any other proof of work, these screenshots are not enough for this review examiner to find that the claimant worked in 2020.

The claimant alleged that she had received a job offer in 2020. She stated that she was to work as a nanny but could not start the job because of COVID-19. The claimant did not remember when she was supposed to start the alleged job. She stated that she could not remember the details because this was from "three years ago." To support the allegation that she had received a job offer, she submitted a note from the alleged would-be employer. The note is handwritten and unnotarized. This review examiner does not find the job offer to be legitimate.

#### 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 agree with the review examiner's legal conclusion that the claimant failed to meet the eligibility requirement to substantiate employment or an offer of 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),<sup>2</sup> 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 at some point between the start of the applicable tax year and the date the claimant filed for benefits.<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 effective March 15, 2020. Consolidated Finding # 1. Therefore, the claimant was required to substantiate employment, self-employment or the planned commencement of employment or self-employment at some time between January 1, 2019, and March 15, 2020.

At both hearings, the claimant testified that she was working as a nanny for a family in February and March, 2020, and that she was offered work as a nanny for a different family. As noted in the review examiner's decision, the claimant asserted that she had been offered a job that was to begin on March 16, 2020.<sup>4</sup> We decline to consider this evidence of the offered job, because, even if proven, it does not fall within the applicable time period. Therefore, the question before us is whether the claimant has met her burden to show that she was working as a nanny in early 2020, prior to March 15, 2020.

In the initial hearing, the claimant did not provide any documentation of her work as a nanny during the relevant period. The District Court remanded this case to the review examiner to consider additional documentation, including a screenshot of a mobile payment application showing payment transactions from February 25, 2020, March 10, 2020, March 17, 2020, and March 19, 2020. This document was admitted into evidence as Remand Exhibit 5.

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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

<sup>4</sup> Exhibit 3 is a handwritten letter the claimant presented to show an offer of employment as a nanny, which was to begin on March 16, 2020. While not explicitly incorporated into the review examiner's Consolidated Findings, Exhibit 3 and this portion of the claimant's testimony are part of the unchallenged evidence introduced at the hearing and placed in the record, and they are thus properly referred to in our decision today. See Bleich v. Maimonides School, 447 Mass. 38, 40 (2006); Allen of Michigan, Inc. v. Deputy Dir. of Department of Employment and Training, 64 Mass. App. Ct. 370, 371 (2005).

However, Findings of Fact ## 3 and 5, state that the claimant had not worked in 2019 or in 2020. They are based upon the review examiner's assessment that the documentation which the claimant provided in her attempt to prove that she worked as a nanny was not credible. Specifically referring to the mobile payment document, the review examiner rejected the document as not credible, because the transaction shows that the payments were made to a different person, who the claimant asserted is her husband, and the description of these transactions do not explicitly state that they were payments for the claimant's nanny services.

Such an assessment is within the scope of the fact finder's role, and, unless the assessment is unreasonable in relation to the evidence presented, it will not be disturbed on appeal. *See School Committee of Brockton v. Massachusetts Commission Against Discrimination*, 423 Mass. 7, 15 (1996). Based upon the record before us, we see no reason to disturb the review examiner's credibility assessment, as it is reasonable in relation to the evidence presented.

Absent any other documentary evidence indicating that the claimant was working or planning to commence work during the period between January 1, 2019, and March 15, 2020, she did not meet her burden to show she is entitled to PUA benefits after December 27, 2020.

We, therefore, conclude as a matter of law that the claimant has not met the eligibility requirement to substantiate employment or self-employment as required by the Continued Assistance Act.

The review examiner's decision is affirmed. The claimant is not entitled to receive PUA benefits as of the week beginning December 27, 2021.

**BOSTON, MASSACHUSETTS**  
**DATE OF DECISION - December 12, 2022**



Paul T. Fitzgerald, Esq.  
Chairman



Charlene A. Stawicki, Esq.  
Member

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](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.

KB/rh