

The claimant presented documentary evidence verifying that he performed work in Massachusetts in 2019 and 2020, the applicable tax year for his PUA claim. Therefore, he met the requirement to substantiate employment under the Continued Assistance Act and is eligible for continued PUA benefits.

**Board of Review
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Chairman
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Member
Michael J. Albano
Member**

Issue ID: N6-H54T-LMFV

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 25, 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 March 8, 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 requirement to substantiate employment, self-employment, or planned commencement of employment or self-employment, and, thus, the claimant was not eligible for continued 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 his burden to substantiate employment or self-employment because he failed to provide sufficient documentation, 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) benefits, with an effective date of March 8, 2020.

2. The Department of Unemployment Assistance (DUA) determined that the claimant has a weekly benefit amount of \$267.00.
3. The claimant was a dog walker during the years of 2019 and 2020.
4. In March 2020, requests for the claimant's services declined due to [COVID]-19 restrictions and closures.
5. Due to the lack of requests for dog walking services, the claimant was no longer receiving earnings.
6. The claimant was residing in Massachusetts when he applied for PUA benefits.
7. The DUA issued a disqualifying determination to the claimant on May 25, 2021.
8. The claimant appealed the determination.

Credibility Assessment:

The claimant produced documentation which indicated earnings received from his employment as a dog walker during the years of 2019 and 2020. The online payment platform that the claimant utilizes has the ability to produce receipts, which details each payment received. The claimant would transfer the funds received from the online platform to his bank account. The claimant testified that he was initially unaware that he could submit his bank statements showing proof of earnings to DUA. He later discovered this option. The claimant was able to submit his November 2019 and January 2020 bank statements which detailed the payments received from this dog walking services. The documentation included details of the payment transferred from the online platform to his bank account, which included the amount and date processed. Consideration was given to the claimant's testimony regarding his dog walking services, and the decline in his client's request due to the [COVID]-19 emergency. The claimant testified that due to [COVID]-19 closures, many of his clients no longer needed his services. The claimant has offered both credible testimony and documentation confirming his employment as a dog walker during the years of 2019 and 2020, and loss of earnings due to the [COVID]-19 emergency.

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.¹ 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-employment² at some point between the start of the applicable tax year and the effective date of claim.³ There is no requirement that such documentation relate to work that the claimant lost because of COVID-19.

The claimant filed for PUA benefits on May 5, 2020, effective March 8, 2020. Therefore, he 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.

On remand, the review examiner found that the claimant was a dog walker during the years of 2019 and 2020. *See Consolidated Finding # 3.* The claimant presented documentary evidence verifying that he received payment for services performed during the relevant period, and this is now reflected in the review examiner's credibility assessment. This satisfies the claimant's burden to substantiate his 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.

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 - March 11, 2024



Paul T. Fitzgerald, Esq.
Chairman



Charlene A. Stawicki, Esq.
Member

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

² Pub. L. 116-260 (Dec. 27, 2020), § 241.

³ 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.

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.

JCT/rh