

**The claimant's tax returns showing cashier work during the prior tax year satisfied her burden to substantial employment, as required under the Continued Assistance Act. She is eligible for further PUA benefits.**

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

**Issue ID: N6-H554-6NK8**

### 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, and was initially approved. However, on July 20, 2021, the DUA sent the claimant an employment substantiation 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 determination 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 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.<sup>1</sup> After reviewing 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. 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 the week ending January 2, 2021, because she failed to present documentation of her cashier work 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

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<sup>1</sup> 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) 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 cashier at a local restaurant during the year 2019.
4. In March 2020, the restaurant was shut down due to COVID-19 restrictions.
5. Due to the restaurant's closure, the claimant was unable to report to work.
6. The claimant was residing in Massachusetts when she applied for PUA benefits.
7. The DUA issued a disqualifying determination to the claimant on July 20, 2021.
8. The claimant appealed the determination.

#### Credibility Assessment:

The claimant produced documentation which indicated earnings received from her employment during the year 2019. The claimant testified that she was initially unaware that on the IRS website an individual could request their 2019 tax return transcript. She later discovered this option. The claimant was able to produce her 2019 tax return transcript which detailed her earnings of that year. The documentation included details of when the IRS received her 2019 tax return, payment of taxes, W-2 wages, and when it was processed. Consideration was given to the claimant's testimony regarding her hourly pay rate and hours worked per week in 2019. The claimant's testimony coincided with the W-2 wages listed within the 2019 tax return transcript. The claimant has offered both credible testimony and documentation confirming her employment during the year 2019.

#### 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 continued 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.<sup>2</sup> In December 2020, Congress added an additional requirement for individuals to continue receiving PUA benefits. Individuals who applied for PUA benefits on or after January 31, 2021, or received a payment of PUA on or after December 27, 2020, had to provide documentation substantiating employment, self-employment, or the planned commencement of employment or self-employment.<sup>3</sup> The documentation had to establish proof of employment, self-employment, or the planned commencement of employment or self-employment at some point between the start of the applicable tax year and the PUA claim effective date.<sup>4</sup> It was intended to show a recent attachment to the labor force and to prevent fraud.<sup>5</sup> There was no requirement that such documentation relate to work the claimant lost because of COVID-19, or that such work be located in any particular state.

Because the effective date of the claim is March 8, 2020, the claimant had to provide proof of employment, self-employment or the planned commencement of either at some point between January 1, 2019, and March 8, 2020.

After remanding this matter for the review examiner to consider the claimant's 2019 income tax transcript submitted with her Board appeal, the review examiner has now found that the claimant was a cashier at a local restaurant during the year 2019. *See Consolidated Finding # 3.* Thus, the claimant has produced substantial and credible documentary evidence of her employment during the required period.

We, therefore, conclude as a matter of law that the claimant has met her burden to substantiate employment as required by the Continued Assistance Act, § 241.

The review examiner's decision is reversed. The claimant is eligible for continued PUA benefits as of the week ending January 2, 2021, and for subsequent weeks, if otherwise eligible.

**BOSTON, MASSACHUSETTS**  
**DATE OF DECISION - March 11, 2024**



Charlene A. Stawicki, Esq.  
Member



Michael J. Albano  
Member

Chairman Paul T. Fitzgerald, Esq. did not participate in this decision.

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<sup>2</sup> Pub. L. 116-136 (Mar. 27, 2020), § 2102.

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

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

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

**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