

The claimant had a claim for regular unemployment benefits and was found to be monetarily eligible, but he was disqualified due to issues related to a leave of absence and quitting his former job. Therefore, the claimant was not eligible for regular unemployment benefits and may be eligible for PUA.

**Board of Review
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Issue ID: N6- H5KF-9J7P

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 December 6, 2020, which was denied in a determination issued on March 31, 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 and denied PUA benefits in a decision rendered on February 24, 2022. We accepted the claimant's application for review.

Benefits were denied after the review examiner determined that the claimant had failed to meet his burden to show he did not qualify for regular unemployment benefits. Our decision is based upon our review of the recorded testimony and evidence from the hearing, the review examiner's decision, the claimant's appeal, as well as the DUA's electronic record-keeping system, UI Online.

The issue before the Board is whether the review examiner's decision, which concluded that the claimant was not eligible for PUA benefits because he did not establish that he was ineligible for regular unemployment benefits under a separate claim that he filed with the DUA, is supported by substantial and credible evidence and is free from error of law.

Findings of Fact

The review examiner's findings of fact are set forth below in their entirety:

1. The claimant filed a claim for Pandemic Unemployment Assistance (PUA) which was determined to be effective December 6, 2020.
2. On April 1, 2020, the claimant filed a claim for regular Unemployment Insurance benefits (UI) with an effective date of March 29, 2020. DUA determined the claimant to be monetarily eligible for UI and calculated his weekly benefit amount at \$110.

3. The claimant has a pending quit issue that is affecting the payment of his UI benefits with an issue start date of September 15, 2020.
4. The claimant also has an indefinite disqualification due to a Leave of Absence issue with an issue start date of December 13, 2020.
5. On March 31, 2021, the claimant was issued a Notice of Eligibility Issue Determination. The notice states as of December 6, 2020, the claimant did not meet the eligibility requirements to qualify for benefits under the PUA program because he had an active claim for regular unemployment benefits and was eligible on the regular UI claim.
6. The claimant subsequently appealed that PUA determination.

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 findings are supported by substantial and credible evidence; and (2) whether the review examiner's original conclusion is free from error of law. After such review, the Board adopts the review examiner's findings of fact except as follows. Finding of Fact # 3, which states that the claimant has a pending quit issue on his regular unemployment claim, is no longer accurate. DUA records in UI Online show the claimant received a notice of disqualification on this issue on June 15, 2022. In adopting the remaining findings, we deem them to be supported by substantial and credible evidence. As discussed more fully below, we disagree with the review examiner's legal conclusion that the claimant was not eligible 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.¹ In order to qualify for PUA benefits, the claimant must show that he is a covered individual within the meaning of the CARES Act. One of the criteria for being a covered individual is that the person is not eligible for regular unemployment compensation or extended benefits under state or federal law.²

In her decision, the review examiner explained that the claimant was not eligible for PUA benefits because he was monetarily eligible for regular unemployment benefits, and, although the claimant had been disqualified due to a leave of absence issue, he had not been disqualified due to being convicted of a crime, nor in connection with a discharge or resignation from employment. *See* Findings of Fact ## 2 and 4. The review examiner applied the PUA eligibility criteria too narrowly.

Section 2102 of the CARES Act merely requires that a claimant seeking PUA benefits not be eligible for regular unemployment compensation or extended benefits under state or federal law. Nothing in the statute or DOL's guidance provides that claimants who are monetarily eligible for

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

² *See* U.S. Department of Labor (DOL) Unemployment Insurance Program Letter (UIPL) 16-20, (Apr. 5, 2020), 4(a).

regular unemployment benefits may only be eligible for PUA benefits if the state agency disqualifies them due to a conviction, discharge, or resignation.

Findings of Fact ## 3 and 4 provide that the DUA had disqualified the claimant from receiving regular unemployment benefits as of December 13, 2020, and that, as of the date of the hearing, another issue was pending based upon his resignation from employment. However, the UI Online system now shows that the DUA has disqualified the claimant based upon that resignation beginning September 15, 2020. This means that, although the claimant may be monetarily eligible to file a regular unemployment claim, the state agency has determined that he is disqualified from collecting any benefits on that claim as of December 6, 2020, the effective date of the PUA claim. Thus, the claimant may seek benefits under the PUA program.

We, therefore, conclude as a matter of law that, because the claimant was disqualified from receiving regular unemployment benefits as of the effective date of his PUA claim, he may not be disqualified from receiving PUA benefits based upon having an active regular unemployment claim.

The review examiner's decision is reversed. The claimant is entitled to receive PUA benefits for the week beginning December 6, 2020, and for subsequent weeks, if otherwise eligible.

BOSTON, MASSACHUSETTS
DATE OF DECISION - December 18, 2023



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

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.

REB/th