

Board of Review
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Issue ID: N6-H5M7-N525

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 filed a claim for PUA benefits with the DUA, effective March 15, 2020, which was denied in a determination issued on April 5, 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 June 1, 2021, concluding that the claimant had failed to establish that she was unemployed for a COVID-19 listed reason under the Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020¹, and, thus, the claimant was not eligible for PUA. We accepted the claimant's application for review.

Ruling of the Board

After considering the recorded testimony and evidence from the hearing, the review examiner's decision, and the claimant's appeal, we conclude that the review examiner's decision is based on substantial evidence and is free from any error of law affecting substantive rights.

Under § 2102 of the CARES Act, a PUA claimant must be a "covered individual," which includes an individual "scheduled to commence employment and does not have a job or is unable to reach the job as a direct result of the COVID-19 public health emergency." *See* § 2102(a)(3)(A)(ii)(I)(gg). The United States Department of Labor has interpreted this to mean a person who "does not have a job because the employer with whom the individual was scheduled to commence employment has rescinded the job offer as a direct result of the COVID-19 public health emergency." *See* U.S. Department of Labor Unemployment Insurance Program Letter 16-20, Change 4 (Jan. 8, 2021), Attachment I, C(1)(gg), p. I-7.

The *only* issue before the Board of Review is whether the claimant has established that an offer of employment she received had been rescinded. The claimant has not proven by virtue of substantial or credible evidence that such a rescission had occurred.

The review examiner's decision is affirmed. The claimant is not entitled to receive PUA benefits as of the week beginning March 15, 2020.

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

BOSTON, MASSACHUSETTS
DATE OF DECISION - January 5, 2022



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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.

MS/rh