

The claimant filed for PUA benefits effective March 1, 2020, and was issued her first PUA benefit payment on May 12, 2020. DUA issued a determination in July, 2021, more than a year later, disqualifying her retroactively to the beginning of her claim. Held the determination was time-barred pursuant to G.L. c. 151A, § 71. Therefore, the claimant remained eligible for PUA benefits.

**Board of Review
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Issue ID: N6-H8D4-D377

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 1, 2020, and was initially approved. However, on July 9, 2021, the DUA issued a Notice of Non-Monetary Issue Determination COVID-19 Eligibility (Notice), determining that the claimant was ineligible for PUA benefits. 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 10, 2022. We accepted the claimant's application for review.

Ruling of the Board

We need not consider whether the claimant established that she met the eligibility requirements for PUA benefits, because the DUA's underlying determination was improperly issued under G.L. c. 151A, § 71.

The unemployment statute imposes time limits on the DUA's authority to redetermine eligibility for benefits. G.L. c. 151A, § 71, provides, in relevant part, as follows:

The commissioner may reconsider a determination whenever he finds that (1) an error has occurred in connection therewith; or (2) wages of the claimant pertinent to such determination but not considered in connection therewith have been newly discovered; or (3) benefits have been allowed or denied or the amount of benefits fixed on the basis of misrepresentation of fact; provided, however, that with respect to (1) and (2) *no such redetermination shall be made after one year from the date of the original determination*; and provided, further, that with respect to (3) no such redetermination shall be made after four years from the date of the original determination

(Emphasis added.)

The claimant in this case seeks PUA benefits, a new unemployment benefit program provided under § 2102 of the 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 she is a covered individual within the meaning of the CARES Act. Section 2102(a)(3)(A)(ii)(I) of the CARES Act defines a covered individual as someone who is otherwise able and available to work, “except the individual is unemployed, partially unemployed, or unable or unavailable to work due to a COVID-19 listed reason.” A claimant must file for PUA benefits in the state where she was working at the time that she became unemployed due to the COVID-19 public health emergency.² Thus, the DUA is prohibited from paying benefits without first determining that the claimant has met these threshold requirements.

The DUA’s electronic record-keeping system, FAST UI, shows that the DUA issued its first PUA benefit payment to the claimant on May 12, 2020. By issuing this payment, the DUA is deemed to have determined that the claimant met the above CARES Act requirements. This means that the DUA’s July 9, 2021, Notice was actually a redetermination. Since nothing in the record or in the FAST UI system indicates that those benefits were paid based upon a misrepresentation of fact, the DUA had one year within which it could redetermine her eligibility for benefits. Here, the DUA’s redetermination disqualifying her was issued more than a year later. Pursuant to G.L. c. 151A, § 71, the agency did not have authority to do so.

We, therefore, conclude as a matter of law that the DUA’s July 9, 2021, Notice was time-barred under G.L. c. 151A, § 71.

The review examiner’s decision is reversed. The claimant is eligible for PUA benefits beginning March 1, 2020, and for subsequent weeks, if otherwise eligible.

BOSTON, MASSACHUSETTS
DATE OF DECISION - August 9, 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**

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

² See U.S. Department of Labor Unemployment Insurance Program Letter (UIPL) 16-20, Change 1 (Apr. 27, 2020), Attachment I, B(7), p. I-3.

(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.

BGM/rh