

**The claimant's Nebraska-based employer did not report his Massachusetts wages to the DUA. Inasmuch as the Nebraska Department of Labor confirmed that the claimant had wages reported in Nebraska but did not file a claim there, the claimant may be eligible for PUA benefits in Massachusetts.**

**Board of Review  
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**Issue ID: N6-H98P-H9N2**

### 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 22, 2020, which was denied in a determination issued on July 6, 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 and denied PUA benefits in a decision rendered on June 13, 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, FastUI.

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 in another state, 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. In late 2019 and early 2020, the claimant worked in Massachusetts as an employee for a Nebraska company.
2. The claimant's employer withheld earnings from the claimant to cover Massachusetts income taxes.
3. The employer did not report the claimant's 2019 or 2020 wages to the Massachusetts Department of Unemployment Assistance (DUA).

4. The claimant's address on his March 2020 paystub is in Maryland.
5. The claimant filed a regular UI claim in Massachusetts that was effective March 22, 2020, and he was denied benefits on that claim because of lack of wages.
6. On May 8, 2020, the claimant filed a claim for Pandemic Unemployment Assistance (PUA) with the Department with an effective date of March 22, 2020, and a weekly benefit amount of \$267 per week.
7. By Notice of Eligibility Issue Determination, dated July 6, 2021, the claimant was advised that he had an active UI claim and was therefore not eligible for PUA as of March 22, 2020.
8. The claimant appealed the July 6, 2021, 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 conclusion is free from error of law. Upon such review, the Board adopts the review examiner's findings of fact and deems 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 in Massachusetts.

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>1</sup> 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.<sup>2</sup>

In this case, the claimant worked in Massachusetts for a Nebraska-based employer while maintaining an address in Maryland. *See Findings of Fact ## 1 and 4.* The claimant's employer did not report the claimant's wages to the DUA, and the claimant was subsequently denied regular Massachusetts unemployment benefits due to lack of wages. *See Findings of Fact ## 3 and 5.* In his decision, the review examiner stated that the fact that the claimant's wages had not been reported in Massachusetts suggested that the wages had been reported elsewhere, and so the claimant might be eligible for benefits in another state. Noting that the claimant had not presented evidence that he had applied for and been denied unemployment benefits in Nebraska, the review examiner concluded that the claimant's potential eligibility for unemployment benefits in Nebraska or elsewhere rendered him ineligible for Massachusetts PUA benefits.

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<sup>1</sup> Pub. L. 116-136 (Mar. 27, 2020), § 2102.

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

We note that a revenue manager with the DUA has since confirmed with the Nebraska Department of Labor via email that wages were reported for the claimant in Nebraska for the third quarter of 2019 and the first and second quarters of 2020, but he did not file a claim in that state. Therefore, the claimant did not have an active claim for benefits in Nebraska. Furthermore, the record shows that the claimant was physically working in Massachusetts for the Nebraska employer. Under these circumstances, the claimant is not eligible for benefits in Nebraska. He rightly sought unemployment benefits here. As his claim for regular Massachusetts unemployment benefits was denied, he may seek PUA benefits in Massachusetts.

We, therefore, conclude as a matter of law that, since the claimant was denied regular unemployment benefits in Massachusetts, and there is no basis to conclude that the claimant is eligible for unemployment benefits elsewhere, he may not be disqualified from receiving Massachusetts PUA benefits based on potential eligibility for regular compensation or extended benefits under state or federal law.

The review examiner's decision is reversed. The claimant is entitled to receive PUA benefits for the week beginning March 22, 2020, and for subsequent weeks if otherwise eligible.

**BOSTON, MASSACHUSETTS**  
**DATE OF DECISION - February 18, 2025**



Charlene A. Stawicki, Esq.  
Member



Michael J. Albano  
Member

Chairman Paul T. Fitzgerald, 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 the 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.

REB/rh

