

The claimant's documentation shows that an employer in Vermont reported wages under his Social Security number in error. Held that the claimant was not potentially eligible for benefits in another state and therefore he was eligible to receive PUA benefits in Massachusetts.

**Board of Review
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Member**

Issue ID: N6- HJ7M-6M6P

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 May 10, 2020, which was initially approved. However, in a determination issued on January 24, 2022, the DUA denied benefits beginning the week ending July 4, 2020. 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 May 9, 2022. We accepted the claimant's application for review.

Benefits were denied after the review examiner determined that the claimant had not shown that he was ineligible for regular unemployment benefits in another state. After considering 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 to consider additional evidence indicating that the claimant had not worked in Vermont and wages were reported for him in that state in error. The claimant attended the remand hearing. Thereafter, the review examiner issued her consolidated findings of fact. 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 Massachusetts PUA benefits because he had not proven that a Vermont employer reported having paid him wages in error, is supported by substantial and credible evidence and is free from error of law.

Findings of Fact

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) with an effective date of May 10, 2020.

2. The claimant's weekly benefit amount is \$267.
3. On January 24, 2022, the Massachusetts Department of Unemployment Assistance (DUA) sent the claimant a Notice of Eligibility Issue Determination informing him he was not eligible for PUA benefits in Massachusetts because he had an active claim for regular unemployment benefits in another state, or he potentially qualified for regular unemployment benefits in another state.
4. The claimant has never worked in Vermont, although records from the Interstate Connection Network in approximately May of 2022 (ICON) revealed that the claimant had earned wages in Vermont totaling \$8,949.60 in the 3rd quarter of 2020. The wages reported were an error.
5. The claimant contacted the Vermont Department of Labor via telephone and email to report that he has never worked in Vermont. On February 28, 2024, and March 1, 2024, a representative from the Vermont Department of Labor emailed the claimant to confirm the wages reported were an error due to an incorrect Social Security number used.
6. The claimant contacted the employer that reported wages in error for him by telephone and email. The employer's letter dated May 26, 2022, states that the claimant has never worked for the employer. It contains a letterhead and is signed by the Office Administrator.
7. The claimant has not filed a claim for unemployment benefits in Vermont.

Credibility Assessment:

The claimant has provided credible documentation showing he has not worked in Vermont in 2020 or prior to the end of the PUA program in 2021. The letter from the employer and the emails between the claimant and the representative from the Vermont Department of Labor show he has never worked in Vermont and the wages reported were an error due to using the incorrect Social Security Number.

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. After such review, the Board adopts the review examiner's consolidated findings of fact except as follows. We reject Consolidated Finding # 4 insofar as it states that the ICON records showing the claimant's reported wages were obtained around May of 2022. DUA records show that the ICON report was obtained in January of 2022, before the disqualifying determination was issued. In adopting the remaining findings, we deem 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 disagree with the review examiner's legal conclusion that the claimant is 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. Under § 2102(a)(3)(A)(i) of the CARES Act, a covered individual is one who “is not eligible for regular compensation or extended benefits under State or Federal law. . . .” Claimants are not eligible to receive PUA benefits in Massachusetts if they are eligible to receive unemployment benefits in another state.²

In this case, a Vermont employer reported that the claimant had earned wages in Vermont during the third quarter of 2020. *See Consolidated Finding # 4.* During the original hearing, the claimant testified that he had never worked for the employer. However, he did not provide any documentation to substantiate his testimony.

On remand, the claimant submitted documentation from the employer and the Vermont Department of Labor stating that the claimant never worked for the employer and the wages were reported under the claimant’s Social Security number in error. *See Consolidated Findings ## 5 and 6.* The review examiner examined these documents and determined that they were credible. She thus found that the claimant never worked in Vermont, and that the wages were reported in error. *See Consolidated Finding # 4.* Absent other evidence that the claimant earned sufficient wages in Vermont to qualify for an unemployment claim in that state, and we see none, he may not be disqualified from receiving PUA benefits in Massachusetts due to eligibility or potential eligibility for a claim in another state.

We, therefore, conclude as a matter of law that the claimant has met his burden to show that he was not eligible for regular or extended benefits, as required under § 2102(a)(3)(A)(i) of the CARES Act.

The review examiner’s decision is reversed. The claimant is entitled to receive PUA benefits from Massachusetts for the week ending July 4, 2020, and for subsequent weeks if otherwise eligible.

BOSTON, MASSACHUSETTS
DATE OF DECISION - February 6, 2025



Paul T. Fitzgerald, Esq.
Chairman



Charlene A. Stawicki, Esq.
Member

Member Michael J. Albano did not participate in this decision.

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

² *See* U.S. Department of Labor Unemployment Insurance Program Letter (UIPL) 16-20, Change 6 (Sep. 3, 2021), 4(c), p. 8.

**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/rh