

**The claimant was not eligible for a waiver of overpaid benefits under G.L. c. 151A, § 69(c), where the agency determined that he was at fault for the overpayment.**

**Board of Review  
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Member  
Michael J. Albano  
Member**

**Issue ID: N6-HK62-9DL6**

### Introduction and Procedural History of this Appeal

The claimant appeals a decision by a review examiner of the Department of Unemployment Assistance (DUA) denying the claimant a waiver of overpaid Pandemic Unemployment Assistance (PUA) benefits in connection with a Massachusetts claim. 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 8, 2020. On February 25, 2022, the DUA issued a determination related to a potential claim eligibility issue, which stated that the claimant was at fault. He appealed that determination, and, following a hearing, a review examiner affirmed the disqualification and fault finding in a decision rendered on May 23, 2022.

He applied to DUA for a waiver of the overpaid PUA benefits. On June 14, 2022, the DUA issued an overpayment waiver determination denying the claimant's application for a waiver. He appealed the overpayment waiver determination to the DUA hearings department. Following a hearing on the merits, the review examiner affirmed the agency's determination in a decision rendered on October 11, 2022, concluding that the claimant was not eligible for an overpayment waiver, as he was determined to be at fault within the meaning of 430 CMR 6.03. We accepted the claimant's application for review of this hearing decision.

### 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.

We note that there were factual errors in the review examiner's decision. The review examiner miscalculated the claimant's monthly expenses and considered credit card debt and a loan balance that were not connected to this claimant's case. However, these errors do not affect our decision. The unemployment statute at G.L. c. 151A, § 69(c), does not permit the DUA to waive the repayment of overpaid benefits where the claimant has been determined to be at fault. Because the potential claim eligibility determination stated that the claimant was at fault, this determination was upheld following a hearing, and the claimant did not file a further appeal to the Board, that decision is final. He is not entitled to have those overpaid benefits waived.

The review examiner's decision is affirmed. The claimant is not eligible for an overpayment waiver.

**BOSTON, MASSACHUSETTS**  
**DATE OF DECISION - March 11, 2024**



Paul T. Fitzgerald, Esq.  
Chairman



Michael J. Albano  
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](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.

MM/rh