

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

Issue ID: N6-HKLJ-8T7H

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 claim filed in Massachusetts. 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 29, 2020. On September 28, 2022, the DUA issued a Notice of Overpayment related to an Active Claim Eligibility Issue which stated that the claimant was at fault. On October 24, 2022, the claimant was issued a Notice of Indigency Overpayment Waiver Determination denying her application for a waiver. The claimant appealed the October 24, 2022, Overpayment Waiver 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 November 25, 2022, concluding that the claimant was not eligible for an indigency overpayment waiver, as she was determined to be at fault within the meaning of 430 CMR 6.03. 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.

According to the DUA's electronic record-keeping system, the claimant did not appeal the underlying fault determination. For this reason, the fault determination is final and G.L. c. 151A, § 69(c), prohibits waiver of the overpayment where it is due to fault.

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

BOSTON, MASSACHUSETTS
DATE OF DECISION - December 28, 2022



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
(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.

JCT/rh