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CIRCUIT COURT ORDER/OPINION
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Appeal Docket No: 182813



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Board Member and assigned attorney to case



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TTA Section of the Act

Date: 3/23, 2006

RD

R. Douglas Daligga, Director
MES - Board of Review

PC _____
REP _____

Prepared by Stephine Gwin

STATE OF MICHIGAN
CIRCUIT COURT FOR THE 4th JUDICIAL CIRCUIT
JACKSON COUNTY

STATE OF MICHIGAN, DEPT OF LABOR
AND ECONOMIC GROWTH, UNEMPLOYMENT
INSURANCE AGENCY/TRA SPECIAL
PROGRAMS UNIT,
Agency/Appellant,

Case No. 05-003992-AE
Hon. Chad C. Schmucker

v

PETER VARGA,
Claimant/Appellee.

ORDER REVERSING IN PART AND AFFIRMING IN PART THE DECISION OF THE
MICHIGAN EMPLOYMENT SECURITY BOARD OF REVIEW

At a session of said Court held in the City of Jackson, County of
Jackson, State of Michigan, on

PRESENT: _____
Circuit Judge

The Michigan Employment Security Board of Review's October 26, 2005 decision affirmed an Administrative Law Judge's decision that: 1) held "the UIA is estopped from holding the claimant ineligible for TRA based on claimant's reliance on the inaccurate instructions from the Michigan Works! Agency."; and 2) held claimant eligible for Federal TRA unemployment benefits [although he did not meet the eligibility requirements of 19 USC § 2291(a)(5)(A)]. The Board of Review's decision is REVERSED IN PART AND AFFIRMED IN PART.

The Court finds that, because claimant received a waiver, he met the eligibility requirement of § 2291(a)(5)(C), which does not contain the deadlines in § 2291(a)(5)(A). Out of considerations of judicial economy, the Court does not remand to the Board of Review because the Board of Review reached the right result for the wrong reasons.

That portion of the Board of Review's decision, that affirmed the application of estoppel to the Agency, is contrary to decisions of the U.S. Supreme Court and is REVERSED. That portion of the Board of Review's decision holding claimant eligible for TRA unemployment benefits is, for the reasons the Court identified, AFFIRMED.

Hon. Chad C. Schmucker
Circuit Judge 27883

Dated: 3/20/06

STATE OF MICHIGAN
EMPLOYMENT SECURITY BOARD OF REVIEW

In the Matter of the Claim of

PETER VARGA,

Appeal Docket No.: TRA-2005-00071-182813

Claimant

Social Security No.: ~~571-914607~~

TRA/SPU UNIT,

Employer

AMENDED DECISION OF BOARD OF REVIEW

Amended decision reflects missing dates on bottom of Page 2.

This case is before the Board of Review as a result of the Agency's September 6, 2005 appeal from an August 8, 2005 Administrative Law Judge [Referee] decision. The Referee's August 8, 2005 decision reversed a May 5, 2005 Unemployment Insurance Agency [Agency] redetermination and found the claimant entitled to TRA benefits. After reviewing the record, we find the Referee's decision should be affirmed. Our reasons are as follows.

All claimants are referred to Michigan Works! in order to file for TRA Benefits (see State of Michigan, DLEG, UIA, Fact Sheet #102). This Fact Sheet also specifies that MWA offices process training approvals and waivers.

In the instant matter, the claimant acted on the advice of an employee of Michigan Works! (Scott Bolt). When the UIA made the determination that the advice was faulty, their reasoning is that:

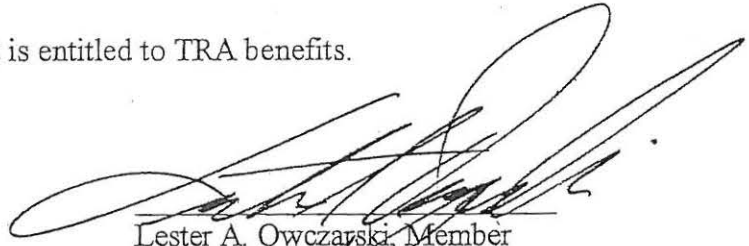
“The Michigan Works! Agency does not act as agent for the Unemployment Insurance Agency or as agent for the United States Department of Labor in matters related to TRA unemployment allowances, and to the extent a staff person of the Michigan Works! Agency gave advice about TRA unemployment allowances, he acted beyond the scope of his authority.”

Since the UIA produces Fact Sheets which claimants are to utilize in filing claims which refer them to Michigan Works!, I cannot but wonder at what point a claimant (with no knowledge of the “system” or USDOL) should be expected to know that an employee of that Agency “acted beyond the scope of his authority.

We would affirm that Referee and adopt his reasoning and conclusions.

For the reasons stated above, the Referee's August 8, 2005 decision is affirmed.

For the reasons stated above, the claimant is entitled to TRA benefits.



Lester A. Owczarski, Member



Charlotte L. Duncil, Member

MAILED AT LANSING, MICHIGAN

OCT 26 2005

This decision will become final unless a written request for rehearing or appeal to the appropriate circuit court is RECEIVED on or before

NOV 8 8 2005

TO PROTECT YOUR RIGHTS, YOU MUST BE ON TIME.