STATE OF RHODE ISLAND **DISTRICT COURT**
PROVIDENCE, Sc. **SIXTH DIVISION**

Haritha Valiveti	:	
	:	
v.	:	**A.A. No. 2024 - 057**
	:	
Department of Labor and Training,	:	
Board of Review	:	

O R D E R

This matter is before the Court pursuant to § 8-8-8.1 of the General Laws for review of the Findings & Recommendations of the Magistrate.

After a de novo review of the record, the Court finds that the Findings & Recommendations of the Magistrate are supported by the record, and are an appropriate disposition of the facts and the law applicable thereto. It is, therefore,

ORDERED, ADJUDGED AND DECREED,

that the Findings & Recommendations of the Magistrate are adopted by reference as the Decision of the Court and the instant case is hereby AFFIRMED.

Entered as an Order of this Court at Providence on this 18th day of December, 2024.

By Order:

/s/

Enter:

/s/
Jeanne E. LaFazia
Chief Judge

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F I N D I N G S & R E C O M M E N D A T I O N S

Ippolito, M. In this case Ms. Haritha Valiverti urges that the Board of Review of the Department of Labor and Training erred when it held that she was not entitled to receive Temporary Caregiver Insurance (TCI) benefits during a period earlier this year when she was taking care of her mother. Jurisdiction to hear and decide appeals from decisions made by the Board of Review is vested in the District Court by G.L. 1956 § 28-44-52. This matter has been referred to me for the making of findings and recommendations pursuant to G.L. 1956 § 8-8-8.1. For the reasons stated below, I have concluded that the decision rendered by the Board in this matter should be AFFIRMED.

I

Facts and Travel of the Case

From my reading of the record, it seems that the facts of this case are not at all in dispute. Ms. Valiveti is a resident of Massachusetts, a citizen of the United States, and an employee of the corporate office of the CVS company. *See Appeal Notice Filed by Ms. Valiveti* (March 13, 2024), which may be found on page 38 of the electronic record (*ER*) attached to this case. Earlier this year, she requested (and was granted) a six-week leave of absence by her employer under the Family Medical Leave Act (FMLA), so that she could respond to the nation of India to care for her mother, who was hospitalized and receiving treatment for a severe illness. *Id*. At the same time, she filed a claim for Temporary Caregiver Insurance (TCI) benefits. *See Dec. of the Director*; *ER* at 36. Her last day of work before traveling to India was February 23, 2024. *See TDI Internet Claims Detail; ER* at 45.

Initially, the Department determined that Claimant Valiveti was monetarily eligible for CGI benefits, given her earnings in the base period preceding her claim. *See Benefit Computation Statement* (February 27, 2024); *ER* at 42. However, on March 7, 2024, a designee of the Director issued a decision indicating that her claim was denied because the physician in India who verified the illness of Claimant's mother was not

licensed to practice medicine in the United States of America. *Dec. of the Director*; *ER* at 36 (citing G.L. 1956 § 28-41-36 and DLT regulation 260-RICR-40-05-1.4(A)(3)). And, for reasons which are not self-evident, a second decision was issued the following day, which cited a second provision of the TCI regulations. *Dec. of the Director II*; *ER* at 37 (citing 260-RICR-40-05-1.38(M)(1), which requires that the medical document be submitted by an "approved licensed provider").

On March 13, 2024, Ms. Valiveti, from India, filed an appeal from these decisions from the Department to the Board of Review. *Appeal Notice; ER* at 38. In the first instance, the Board assigned one of its hearing officers, known as "referees," to conduct a hearing into the matter on May 30, 2024. *Referee Hr'g Tr.* at 4; *ER* at 4. At that hearing, Claimant appeared, as did a representative of the DLT, Mr. Daniel Marella. *Id.*

After the Referee attended to the customary formalities — such as explaining the procedure to be followed, the administration of the testimonial oath, and the enumeration of the documents in the record transferred from the Department to the Board of Review — the Referee asked Mr. Marella to explain why Ms. Valiveti's claim had been denied. *Ref. Hr'g Tr.* at 8; *ER* at 11.

The DLT Representative stated that her claim was denied because no evidence had been submitted which showed that the treating

physician was a medical professional licensed to practice in the United States and its territories. *Ref. Hr'g Tr.* at 8; *ER* at 11. Given the opportunity to respond, Ms. Valiveti agreed that the physician was solely licensed in the nation of India. *Id.* at 9; *ER* at 12. When asked why, in that case, she decided to appeal, she explained the medical difficulties being experienced by the members of her family. *Id.* at 10; *ER* at 13. The Referee then offered final comments and closed the hearing. *Id.* at 10; *ER* at 13-15.

In her decision, issued on May 31, 2024, the Referee made the following Findings of Fact regarding Claimant's eligibility:

> The claimant filed a claim on February 26, 2024 and requested TCI benefits effective February 25, 2024. She requested benefits while she was caring for her mother in India; her mother is under the medical care of a physician in that country. The claimant has now returned to the United States. The physician overseeing her mother's care is licensed to practice medicine in India. He is not licensed to practice medicine in the United States or its territories.

Dec. of Referee, at 1; *ER* at 21. Next, the Referee framed the legal issue to be answered in the case:

> … whether the physician caring for the claimant's mother meets the definition of a Qualified Healthcare Provider" or "QHP" or "Medical Practitioner" under the provisions of Section 28-41-36(b)(6) and of the Rhode Island Code of Regulations Title 260, Chapter 40, Subchapter 05, Part 1.1(A)(3).

Dec. of Referee, at 1; *ER* at 21. Finally, after quoting extensively from these

provisions, the Referee concluded:

> In this case, the claimant's mother's physician is not an individual licensed to practice medicine in the United States of America or its territories; therefore, he does not meet the definition of a "Qualified Health-care Provider" or "QHP" or "Medical Practitioner" as required under Section 28-41-36 (b) (6) of the Employment Security Act or of Part 1.4(A) (3) of the Rhode Island Code of Regulations. Accordingly, TCI benefits must be denied as previously determined by the Director claimant.

Dec. of Referee, at 1-2; *ER* at 21-22. And so, the Decision of the Director was affirmed. *Id*. at 2; *ER* at 22.

Ms. Valiveti then sought further review by the Board of Review, which did not conduct a new hearing; instead, the Board decided the case based on the record developed by the Referee, as it has the authority to do under G.L. 1956 § 28-44-47. Employing this procedure, the full Board of Review affirmed the Referee's decision, finding it to be a proper adjudication of the facts and the law applicable thereto; the Referee's decision was adopted as the decision of the Board. *See Dec. of Board of Review,* at 1; *ER* at 2. Finally, Claimant filed the instant appeal within the time limit set by statute.

II

APPLICABLE LAW

A

Standard of Review

The standard of review is provided by G.L. 1956 § 42-35-15(g), a section of the state Administrative Procedures Act, which provides as follows:

> **42-35-15. Judicial review of contested cases.**
>
> * * *
>
> (g) The court shall not substitute its judgment for that of the agency as to the weight of the evidence on questions of fact. The court may affirm the decision of the agency or remand the case for further proceedings, or it may reverse or modify the decision if substantial rights of the appellant have been prejudiced because the administrative findings, inferences, conclusions, or decisions are:
>
> (1) In violation of constitutional or statutory provisions;
>
> (2) In excess of the statutory authority of the agency;
>
> (3) Made upon unlawful procedure;
>
> (4) Affected by other error of law;
>
> (5) Clearly erroneous in view of the reliable, probative and substantial evidence on the whole record; or
>
> (6) Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

Thus, on questions of fact, the District Court "* * * may not substitute its judgment for that of the agency and must affirm the decision of the agency unless its findings are 'clearly erroneous.' " *Guarino v. Department of*

Social Welfare, 122 R.I. 583, 584, 410 A.2d 425 (1980) (citing G.L. 1956 § 42-35-15(g)(5)). The Court will not substitute its judgment for that of the Board as to the weight of the evidence on questions of fact. *Cahoone v. Board of Review of the Department of Employment Security,* 104 R.I. 503, 246 A.2d 213 (1968). Stated differently, the Board's findings will be upheld even though a reasonable mind might have reached a contrary result. *Cahoone,* 104 R.I. at 506-07, 246 A.2d at 215 (1968). *See also D'Ambra v. Board of Review, Department of Employment Security,* 517 A.2d 1039, 1041 (R.I. 1986).

The Supreme Court of Rhode Island recognized in *Harraka v. Board of Review of Department of Employment Security,* 98 R.I. 197, 200, 200 A.2d 595, 597 (1964), that a liberal interpretation shall be utilized in construing the Employment Security Act:

> * * * eligibility for benefits is to be determined in the light of the expressed legislative policy that "Chapters 42 to 44, inclusive, of this title shall be construed liberally in aid of their declared purpose which declared purpose is to lighten the burden which now falls upon the unemployed worker and his family." G.L. 1956, § 28-42-73. The legislature having thus declared a policy of liberal construction, this court, in construing the act, must seek to give as broad an effect to its humanitarian purpose as it reasonably may in the circumstances. Of course, compliance with the legislative policy does not warrant an extension of eligibility by this court to any person or class of persons not intended by the legislature to share in the benefits of the act; but neither does it permit this court to

enlarge the exclusionary effect of expressed restrictions on eligibility under the guise of construing such provisions of the act.

B

Pertinent Provisions of the Temporary Insurance Disability Act

In my view, two provisions of law are pertinent to the instant case. The first is § 28-41-36(b)(6) of the Temporary Disability Insurance Act; it states:

> **28-41-36. Certification of eligibility for leave —**
> (a) An individual who exercises his or her right to leave covered by the temporary caregiver insurance program under this chapter shall file a certificate form with all information required by the department.
> (b) For leave for reason of caring for a seriously ill family member, an employee shall file a certificate with the department that shall contain:
> (1) A diagnosis and diagnostic code prescribed in the international classification of diseases, or where no diagnosis has yet been obtained, a detailed statement of symptoms;
> (2) The date if known, on which the condition commenced;
> (3) The probable duration of the condition;
> (4) An estimate of the amount of time that the licensed qualified health care provider believes the employee is needed to care for the family member;
> (5) A statement that the serious health condition warrants the participation of the employee to provide care for his or her family member. "Warrants the participation of the employee" includes, but is not limited to, providing psychological comfort, arranging third-party care for the family member as well

> as directly providing, or participating in the medical and physical care of the patient; and
> (6) *A certificate filed to establish medical eligibility of the serious health condition of the employee's family member shall be made by the family member's treating licensed qualified health care provider*.
> (7) …
> (c) …

(Emphasis added). This mandate is elucidated by a provision in the Code of Regulations that defines the term "qualified healthcare provider, as follows:

> 3. "Qualified healthcare provider" or "QHP" or "Medical practitioner" means an individual *licensed in the United States of America to practice medicine,* surgery, dentistry, optometry, osteopathy and podiatry; also chiropractic and psychology within the scope of the individual's practice as defined by applicable laws of Rhode Island, or of any other state of the United States, or such other jurisdiction. This includes, licensed clinical social workers, licensed independent clinical social workers, licensed nurse midwives, nurse practitioners, physician assistants and psychiatric clinical nurse specialists (PCNS) as the Director in his/her discretion may allow; provided, however, that the Director may require documentary evidence of the license to practice in any case in which he/she deems such evidence to be necessary.

Regulation 260-RICR-40-05-1.4(A)(3) (emphasis added).

III
ANALYSIS

As presaged *supra,* there are no purely factual issues to be resolved in this case. The parties do not contest that Claimant Valiveti traveled to India to care for her mother, who was seriously ill and, as a result, hospitalized. However, under the applicable Rhode Island regulation, a TCI claim cannot be approved unless the physician who submitted the required medical certificate is licensed to practice in an American jurisdiction. This is the policy that was set in Rhode Island law in the times pertinent to the instant case.[1] Therefore, Ms. Valiveti's TCI claim, which was certified by a physician not licensed in the United States, must be deemed insufficient as a matter of law.

[1] Certainly, no person of average sensibilities could fail to sympathize with Ms. Valiveti's family health situation. To those who feel the required outcome is unjust, we can also offer the knowledge that the regulation at the core of this case has been amended to allow claims for TCI benefits predicated on a family member receiving foreign medical care. This amendment became effective on December 3, 2024.

IV
CONCLUSION

Upon careful review of the evidence, I find that the decision of the Board of Review is not affected by error of law. G.L. 1956 § 42-35-15(g)(3),(4). Further, it is also not clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; nor is it arbitrary or capricious. G.L. 1956 § 42-35-15(g)(5),(6).

Accordingly, I recommend that the decision rendered by the Board of Review in this case be AFFIRMED.

/s/
Joseph P. Ippolito
Magistrate

December 18, 2024