



Our review of the Board’s decision is “highly deferential.” 863 To Go, Inc. v. Dep’t of Lab., 2014 VT 61, ¶ 8, 196 Vt. 551. We “will uphold the Board’s factual findings unless clearly erroneous and its conclusions of law if fairly and reasonably supported by those findings.” Bouchard v. Dep’t of Emp. & Training, 174 Vt. 588, 589 (2002) (mem.) (citation omitted). “Absent a clear showing to the contrary, any decisions within the Board’s expertise are presumed to be correct, valid, and reasonable.” Id.

There was no error here. As referenced above, a claimant must be “able to work” and “available for work” to be entitled to unemployment benefits. 21 V.S.A. § 1343(a)(3). We have explained that “the purpose of the unemployment compensation law is not to provide sick benefits nor to compensate those who cease working because of illness.” LaFountain v. Dep’t of Lab., 2018 VT 31, ¶ 7, 207 Vt. 120 (quotation omitted). “Instead, the law is designed to assist members of the working force who are made jobless by operations of the economy over which they have no individual control.” Id. (quotation omitted).

The Board found here, based on medical information provided by claimant’s doctor, that claimant was not able and available for work during the periods in question. Her doctor identified the reason as a flare-up of her skin condition and stated that it was not related to COVID or being at high risk for COVID. These findings are supported by the record.

The Board did not err in holding claimant liable for the overpayment. It did not need to find that claimant made a knowing misrepresentation or acted fraudulently to reach this conclusion. Pursuant to 21 V.S.A. § 1347(a):

any person who by nondisclosure or misrepresentation by him or her . . . of a material fact (irrespective of whether such nondisclosure or misrepresentation was known or fraudulent) has received any amount as benefits . . . while any conditions for the receipt of benefits . . . were not fulfilled in his or her case or while he or she was disqualified from receiving benefits, shall be liable for such amount.

As set forth above, claimant erroneously stated that she was able and available to work during periods where she was not in fact able or available to work due to a non-COVID-related medical condition. She is thus liable under § 1347(a) to repay the Department for the benefits that she received. There is no basis to disturb the Board’s decision.

Affirmed.

BY THE COURT:

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Harold E. Eaton, Jr., Associate Justice

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William D. Cohen, Associate Justice

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Nancy J. Waples, Associate Justice