

**Board of Review  
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**Issue ID: 0019 7678 40**

## **BOARD OF REVIEW DECISION**

### **Introduction and Procedural History of this Appeal**

The claimant appeals a decision by Richard Conway, a review examiner of the Department of Unemployment Assistance (DUA), denying the claimant regular unemployment benefits while he participated in a training program. We review, pursuant to our authority under G.L. c. 151A, § 41, and reverse.

The claimant became separated from employment and filed a claim for unemployment benefits effective June 12, 2016, which was approved by the DUA. On September 13, 2016, the claimant timely filed an application with the DUA for an extension of benefits to attend a training program, which the agency denied on October 20, 2016. On the same day, the agency disqualified the claimant from regular unemployment benefits pursuant to G.L. c. 151A, § 24(b), because he had not demonstrated a prior history of both studying and working full-time. The claimant appealed the instant determination to the DUA hearings department. Following a hearing on the merits on May 1, 2017, attended by the claimant, the review examiner affirmed the agency's initial determination and denied benefits in a decision rendered on May 27, 2017. A corrected decision was issued on July 27, 2017.

The review examiner concluded that the claimant was ineligible for regular unemployment benefits because he was attending school full-time, his program was not approved for training benefits pursuant to G.L. c. 151A, § 30(c), and the claimant did not have a history of attending school full-time while working full-time. We accepted the claimant's application for review.

### **Ruling of the Board**

The claimant appealed the instant decision together with another case heard simultaneously by the review examiner, who found the claimant ineligible for training benefits pursuant to G.L. c. 151A, § 30(c). *See* DUA Issue ID # 0019 7503 98. We accepted the claimant's application for review in that case as well. After considering the recorded testimony and evidence from the hearing, the review examiner's decisions, the claimant's appeals, and information available to us regarding the claimant's claim for benefits through the DUA's UI Online record-keeping database, we reverse the review examiner's decision.

Our review of the UI Online database showed that after his initial application for training benefits was denied, the claimant timely filed a second application for training benefits on or about November 4, 2016. The DUA denied this application on November 16, 2016, and the

claimant appealed the determination. *See* DUA Issue ID# 0020 1399 74. Another DUA review examiner, J. Ferullo, conducted the hearing in this case over three sessions — on March 17, April 10, and May 8, 2017. Citing the claimant’s direct and consistent testimony that he has been enrolled as a full-time student since beginning the program on September 6, 2016, and documentation proffered by the claimant over the course of the hearing including a program syllabus, Review Examiner Ferullo found the claimant established that he will complete his program within the two-year parameters of the statute and applicable regulations, and awarded training benefits pursuant to G.L. c. 151A, § 30(c).

Rather than submit the claimant to further time-consuming administrative processes, we conclude that the outcome reached by Review Examiner Ferullo — which considered the same program for which the claimant applied for training benefits in the present case — to be correct and controlling. We also reversed the decision in Issue ID # 0019 7503 98, as a matter of law, concluding that the claimant is eligible for training benefits.

Because we conclude, as a matter of law, that the claimant is eligible for training benefits, he is also relieved of the obligation to be available for and actively seeking work while attending his training program pursuant to G.L. c. 151A, § 24(b), and 430 CMR 9.07(2). *See also* Board of Review Decision 0016 1171 46 (Dec. 18, 2015).<sup>1</sup>

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<sup>1</sup> Board of Review Decision 0016 1171 46 is an unpublished decision, available upon request. For privacy reasons, identifying information is redacted.

The review examiner's decision is reversed. The claimant is entitled to receive regular unemployment benefits while attending his full-time program, for the period beginning with the date of his first application for training benefits, September 13, 2016, and for subsequent weeks if otherwise eligible.<sup>2</sup>

**BOSTON, MASSACHUSETTS**  
**DATE OF DECISION - August 30, 2017**



Paul T. Fitzgerald, Esq.  
Chairman



Charlene A. Stawicki, Esq.  
Member

Member Judith M. Neumann, Esq. did not participate in this decision.

**ANY FURTHER APPEAL WOULD BE TO A MASSACHUSETTS STATE DISTRICT  
COURT OR TO THE BOSTON MUNICIPAL 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.

JPC/rh

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<sup>2</sup> We note that the Corrected Decision in this case improperly used the date of the initial decision from Review Examiner Ferullo, June 14, 2017, as the end date for the disqualification under § 24(b). The correct date is the date the claimant submitted his initial application for training benefits to attend the training program, which was ultimately approved.