

Claimant did not provide substantial and credible evidence to establish good cause for filing her application for training benefits after her 20th compensable week, where she made numerous misrepresentations to DUA representatives regarding her participation in the training program for which she sought benefits. Her alleged lack of awareness of the availability of training benefits was not credible where she had applied for and received training benefits on a prior unemployment claim.

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Issue ID: 0021 0633 37

BOARD OF REVIEW DECISION

Introduction and Procedural History of this Appeal

The claimant appeals a decision by Marielle Abou-Mitri, a review examiner of the Department of Unemployment Assistance (DUA), denying an extension of the claimant's unemployment benefits while she participated in a training program. We review, pursuant to our authority under G.L. c. 151A, § 41, and affirm.

The claimant separated from employment and filed a claim for unemployment benefits on January 31, 2016, which was subsequently approved. On September 27, 2016, the claimant filed an initial application for training benefits, which was denied in a determination issued on October 22, 2016. The claimant appealed that determination to the DUA hearings department. Following a hearing on the merits, which the claimant attended, another review examiner (Review Examiner J. Cronin) reversed the agency's determination and awarded training benefits in a decision rendered on December 3, 2016 (DUA Issue ID# 0019 7863 36).

However, the claimant did not attend the training program during the period for which she had been approved by Review Examiner Cronin.¹ She filed a second training application on March 17, 2017, which was denied in a determination issued on May 11, 2017. The claimant appealed that determination to the DUA hearings department. Following a hearing on the merits, which the claimant attended, Review Examiner Abou-Mitri affirmed the agency's determination and denied training benefits in a decision rendered on May 2, 2017. We accepted the claimant's application for review.

¹ The claimant was issued two Notices of Disqualification on March 9, 2017, under G.L. c. 151A, §§ 30 and 24(b). One revoked the approval granted by the Review Examiner Cronin's December 3, 2016, decision, because the claimant admitted she did not begin her training program on October 7, 2016. *See* DUA Issue ID # 0020 3398 91; Hearings Exhibit # 13. The second disqualified the claimant from training benefits during a "regularly scheduled break in school or training attendance of longer than three weeks." *See* DUA Issue ID # 0021 2486 31; Hearings Exhibit #15. This latter disqualification also deemed that the claimant had been overpaid \$7,103.00 in benefits to which she was not entitled. To date, the claimant has not appealed either determination.

Training benefits were denied because the claimant did not file her application before the end of her twentieth compensable week and, thus, was ineligible for training benefits pursuant to G.L. c. 151A, § 30(c). The review examiner's conclusion also noted that the claimant had neglected to inform Review Examiner Cronin that she had stopped going to classes prior to his December 1, 2016, hearing.

After considering the recorded testimony and evidence from the hearing, the review examiner's decision, and the claimant's appeal, we remanded the case to the review examiner to take additional evidence regarding the claimant's applications for training benefits, including her awareness of the availability of training benefits, whether she began attending her program as initially scheduled, whether she certified for training benefits when she was not actually attending school, and if and when she began her training program. We also sought testimony from a representative of the claimant's training program regarding her participation in the program. The review examiner conducted a remand hearing, which only the claimant attended. Thereafter, she issued her consolidated findings of fact and credibility assessment. Our decision is based upon our review of the entire record.

The issue before the Board is whether the review examiner's initial conclusion that the claimant was ineligible for training benefits because she failed to establish good cause for failing to submit her Training Opportunity Program (TOP) application within the 20-week deadline is supported by substantial and credible evidence and is free of error of law.

Findings of Fact

The review examiner's consolidated findings of fact and credibility assessment are set forth below in their entirety:

1. The claimant filed claims for unemployment benefits in 2010, 2011, 2012, 2013, 2016 and twice in 2017. The claimant has filed for unemployment benefits a total of seven times.
2. On April 29, 2010, the claimant filed a claim for unemployment benefits effective April 2, 2010 (2010-01 claim) (Remand Exhibit 7). The claimant requested unemployment benefits from the week ending April 10, 2010 through the week ending December 3, 2011 and collected Regular UI benefits, EUC08 – Tier 1.1 benefits, EUC08 – Tier2 benefits, EUC08 – Tier 3 benefits, and EB 2009 benefits.
3. The claimant also collected training benefits on the 2010-01 claim from the week ending December 10, 2011 through the week ending May 5, 2012 (Remand Exhibit 8).
4. While collecting training benefits on the 2010-01 claim, the claimant was enrolled in a pharmacy technician program at [Town A] Hospital. The exact start and end dates of the pharmacy technician program are unknown.

5. The claimant completed the pharmacy technician program and obtained a certificate for completion of the program in May of 2012. The exact graduation date is unknown.
6. The claimant's pharmacy technician program is not related to any other programs she has enrolled in subsequent to the pharmacy technician program.
7. In 2011, the claimant applied for the Training Opportunities Program (TOP), while attending the pharmacy technician program, with the help of a career center representative. The career center representative from the Norwood career center notified the claimant about TOP. The representative helped the claimant complete the TOP application. The claimant understood that she was allowed to continue to collect unemployment benefits because of her enrollment in TOP. The claimant allowed the career center representative to fill out the TOP application and the claimant blindly signed it. The claimant did not inquire into the specific name of the program she was being approved under. The claimant's only concern was that she would continue to receive unemployment benefits so that she could cover the cost of the program.
8. On January 31, 2016, the claimant filed a claim for unemployment benefits effective January 28, [2016]. The claim expired on January 28, 2017 (2016-01 claim).
9. The twentieth compensable week of the 2016-01 claim is the week ending June 25, 2016.
10. On September 27, 2016, the claimant submitted her first [sic] application for approval for the Training Opportunities Program (TOP) [on her 2016-01 claim]. The claimant's TOP application indicated that her expected start date in her training program at Boston Career Institute (BCI) towards the Dental Assistant Certificate was to start on October 7, 2016 and her expected completion date was July 7, 2017. The first application provided the claimant would be in classes 5 days per week for a total of 33 hours.
11. The claimant began taking classes on October 7, 2016.
12. The claimant stopped taking classes after 1 week, in mid-October of 2016. The exact date the claimant stopped taking classes is unknown.
13. The claimant stopped taking classes because her TOP application was still pending. The claimant did not want to be in classes without obtaining approval for Section 30 benefits because she could not afford to pay for the program if she did not continue to receive unemployment benefits.
14. The claimant did not consult with a DUA representative before she stopped attending her classes.

15. On October 22, 2016, the DUA issued the claimant a Notice of Disqualification (Issue ID 0019 7863 36-01) (“first disqualification”) denying the claimant’s TOP application because it was determined that the claimant did not have good cause for filing her application after the 20th compensable week.
16. The claimant appealed the first disqualification. The hearing was scheduled for December 1, 2016.
17. The claimant did not consult with anyone from DUA about what she should do between the initial denial of training benefits on October 22, 2016 and until her hearing decision was issued. There are no records of communication between the claimant and DUA representatives during this time period on UI Online.
18. The claimant had a hearing for the first disqualification on December 1, 2016. The hearing was held by Review Examiner Cronin.
19. During the hearing, the claimant told Review Examiner Cronin that the first time she found out about her ability to file for TOP benefits was when she was notified about it from a career counselor in September of 2016.
20. The claimant did not mention to Review Examiner Cronin that she had collected benefits while attending a training program in 2011 and 2012. The claimant’s only concern was that she would get approved for TOP so that she could have her unemployment benefits cover the cost of the program.
21. The claimant waited until September of 2016 to explore training programs because the claimant’s regular benefits ended on the 2016-01 claim on the week ending September 3, 2016. The claimant assumed that she would be collecting unemployment benefits until her benefit year expired on January 28, 2017.
22. As of the December 1, 2016 hearing with Review Examiner Cronin, the claimant was not attending classes at BCI. During the hearing, the claimant did not notify Review Examiner Cronin that she stopped going to classes.
23. During the hearing on December 1, 2016, Review Examiner Cronin asked the claimant if she was “enrolled” in the program. The claimant chose not to notify to Review Examiner Cronin that she was no longer attending classes so that she would get approved for training benefits. The claimant answered the question posed by Review Examiner Cronin literally and stated that she was still “enrolled.” The claimant also provided that she was still in good standing.
24. Review Examiner Cronin issued the claimant a decision on December 3, 2016. The claimant was approved for TOP benefits from October 7, 2016 through July 7, 2017.

25. By December 6, 2016, the claimant had the decision issued by Review Examiner Cronin in her possession and was aware that her training benefits had been awarded.
26. On December 6, 2016, the claimant called the DUA by telephone and spoke to a representative in the special programs unit. "The claimant called to discuss her hearings approval" issued by Review Examiner Cronin (Exhibit 12 page 2). The special programs representative made the claimant's unemployment weeks requestable beginning the week ending October 8, 2016. After making the weeks requestable for the claimant, the claimant disclosed information to the representative regarding her failure to continue taking classes in October of 2016. The claimant notified the special programs representative that she "will work on getting a new application in." (Exhibit 12 page 2) Any other discussions between the claimant and the special programs representative are unknown.
27. On December 12, 2016, the claimant certified for TOP benefits retroactively for the week ending October 8, 2016 and the week ending October 15, 2016. The claimant was not in class during the week ending October 15, 2016. On December 13, 2016, the claimant certified for TOP benefits retroactively for the week ending October 22, 2016, although she was not in classes during this time. On December 14, 2016, the claimant certified for TOP benefits retroactively for the week ending October 29, 2016 through December 10, 2016, although she was not in classes during this time.
28. The claimant requested weekly benefits from the week ending December 17, 2016 through the week ending January 21, 2017, although she was not in classes during this time.
29. The claimant understood that she was certifying for training benefits for weeks when she was not attending classes. The claimant did this because she was unemployed and needed the money.
30. The claimant began taking classes again at BCI towards completion of the Dental Assistant Program on January 28, 2017. The claimant was in classes Monday through Friday from 9:00 am to 3:00 pm.
31. The claimant submitted a second TOP application providing she started the program on January 28, 2017 and was expected to complete the program by October 28, 2017. The claimant's second TOP application was submitted by fax on March 17, 2017.
32. It is unknown why the claimant did not file her second TOP application any sooner than March 17, 2017.
33. The claimant will not complete the program by October 28, 2017, as her second TOP application provided. The claimant's anticipated completion date is

January 28, 2018 (Remand Exhibit 12). The claimant continues to have remaining credits to complete. The specific reason for the delay in the program's completion is unknown.

34. On April 25, 2017, an admissions representative from BCI sent the DUA a letter which provided, "Original application was completed by the school on 9/16/2016 with a starting date 10/7/2016, we received the letter of approval on Dec. 3, 2016, this was too late to start on 10/7/2016, so she started on 1/28/2017 her counselor told me that I might be getting a new application because of the new dates. On 2/7/2017 [Claimant] came in with a new TOP application for the school to fill out with new starting and finishing dates." (Exhibit 11)
35. The details about any communications that occurred between the claimant and BCI officials are unknown.
36. On May 11, 2017, the claimant was issued a second Notice of Disqualification (Issue ID 0021 0633 37-01) denying the claimant's TOP application because it was determined that the claimant did not have good cause for filing her application after the 20th compensable week.

CREDIBILITY ASSESSMENT

Initially it is important to note, the Board of Review requested that the claimant have an official from the Boston Career Institute (BCI) participate in the remand hearing to submit documentary evidence and sworn testimony about the claimant's training program. The claimant failed to have anyone from BCI participate in the hearing on her behalf.

The totality of the claimant's testimony was not credible. The claimant has provided contradictory statements in her initial hearing with Review Examiner Cronin, her first hearing regarding the issue in question and the remand hearing. The totality of the claimant's testimony was unclear, evasive, and unsubstantiated for the following reasons.

The claimant was unable to provide the exact date she stopped taking classes at BCI. The claimant testified that she began taking classes on October 7, 2016 and that she stopped after "a week or two". Upon further questioning, the claimant testified that she stopped taking classes "after about a week." The claimant was also unable to provide any documentary evidence to show the exact date she stopped taking classes. Based on her unclear testimony, this Review Examiner determined that the claimant stopped taking classes after one week, in mid-October of 2016.

In the claimant's appeal to the Board of Review, the claimant alleged that she did not receive the decision from Review Examiner Cronin until January 3, 2017. The claimant's testimony on this matter was not credible. There is documentary evidence in the record which shows that the claimant contacted the DUA and spoke to a representative from the special programs unit (see Exhibit 12 page 2). The

special programs representative noted in the UI Online system that “the claimant called to discuss her hearings approval” on December 6, 2016. Moreover, the special programs representative made the weeks requestable for the claimant and the claimant personally certified for benefits following their telephone conversation. At the remand hearing, the claimant denied receiving the decision from Review Examiner Cronin until January 3, 2017 but testified that she probably did call on December 6, 2016 and that she “made a lot of calls.” These statements are contradictory. When asked by this Review Examiner if she certified for the weeks from October 8, 2016 through December 10, 2016, in December following her conversation with the special programs representative, the claimant alleged that she had no knowledge of the call or the late certification of benefits. The claimant’s uncertainty on this matter further weakened her testimony. Furthermore, the Board of Review requested that the claimant explain the April 25, 2017 letter from BCI which provides that they received a “letter of approval on Dec. 3, 2016.” The claimant denied having any communications with BCI about her approval in December and continued to alleged [sic] that she had no knowledge about the approval until January 3rd. The claimant’s testimony was illogical and unreasonable given the BCI letter.

The Board also requested that the claimant offer testimony about communications she had with DUA representatives after she stopped going to classes in October of 2016 and until her hearing with Review Examiner Cronin on December 3, 2016. At the initial hearing held on this issue, the claimant admitted that she did not have any communications with DUA representatives during this time period. At the remand hearing, when asked Question 6 on the Remand Order, the claimant began making claims that she called many times. The claimant testified that she “probably called to see about [her] benefits.” The claimant had no knowledge of the dates she called and with whom she spoke. The claimant stated, “I probably called a few times.” When asked by this Review Examiner what the representatives told her on the dates she allegedly called, the claimant stated that the representatives would tell her things are pending or to check back later. The claimant’s testimony was not credible. The claimant has offered many contradictory statements. Further, the claimant’s allegation that she called many times, is not documented in UI Online. This Review Examiner closely inspected all of the notes in the UI Online system for the aforementioned time frame and no records were entered regarding any alleged communication between the claimant and DUA representatives. Any notes regarding communications about TOP or Section were entered into the record (See Remand Exhibit 11, 11A, 11B, 11C, 11D). As such, the claimant’s vague and unclear testimony that she called many times is not credible.

The claimant’s allegations that she had no knowledge about Section 30 benefits and TOP are also not credible. After a thorough investigation of the claimant’s claim history, it is evident that the claimant has collected training benefits previously in 2011 and 2012. The claimant failed to notify Review Examiner Cronin of this material fact during her hearing on December 1, 2016 when she alleged that she first heard about TOP from a career center representative in September of 2016. At the remand hearing, the claimant testified that in 2011, the career center

representative filled out her TOP application and she blindly signed it. The claimant admitted that she understood she was being allowed to collect unemployment benefits while attending a training program. But [the claimant] alleged that the TOP program and Section 30 benefits had a different name and were referred to using a different term. The claimant's testimony on this matter was unreasonable and illogical. The name of the TOP application and Section 30 benefits has not changed and was in fact, the same in 2011 when the claimant applied the first time. The totality of the claimant's testimony on this matter shows that the claimant was aware of the program prior to September of 2016. The testimony the claimant provided to Review Examiner Cronin in the December 1st hearing that resulted in her initial approval, was not true.

When asked by this Review Examiner why the claimant did not notify Review Examiner Cronin that she was not in class as of the December 1st hearing, the claimant testified that Review Examiner Cronin did not ask her explicitly. The claimant testified that Review Examiner Cronin asked the claimant if she was "enrolled" in the program and not "attending classes". The claimant's testimony on this matter shows that she deliberately and intentionally attempted to conceal that she had stopped taking classes. The claimant was willing to withhold information from Review Examiner Cronin in an effort to get approv[al] for TOP benefits.

Lastly, at the initial hearing of this issue, the claimant testified that she would complete the BCI program on October 28, 2017. The remand hearing was held on October 27, 2017, one day before the claimant was supposed to complete the program. As of the date of the remand hearing, there is no indication that the claimant is close to completing the program. The claimant was unable to provide a specific date she would complete the program. The claimant testified that she had an "additional one or two months" before she would finish the program. The claimant provided a "BCI Enrollment Agreement" which states the program is expected to complete on Sunday, January 28, 2018. When asked by this Review Examiner if the date on the enrollment agreement is accurate, the claimant testified that it was. As such, the claimant has also been unable to provide any credible testimony regarding the exact end of the program or the reason for her continued delay in completion.

Ruling of the Board

In accordance with our statutory obligation, we review the decision made by the review examiner to determine: (1) whether the consolidated findings are supported by substantial and credible evidence; and (2) whether the review examiner's ultimate conclusion is free from error of law. Upon such review, the Board adopts the review examiner's consolidated findings of fact and credibility assessment and deems them to be supported by substantial and credible evidence.

The review examiner initially denied the claimant's application for training benefits, concluding she failed to meet the requirements of G.L. c. 151A, § 30(c), which relieves claimants who are enrolled in approved retraining programs of the obligation to search for work, and permits

extensions of up to 26 weeks of additional benefits while enrolled in training. The procedures and guidelines for implementation of training benefits are set forth in 430 CMR 9.00–9.09.

Under G.L. c. 151A, § 30(c), it is the claimant's burden to prove that she fulfills all of the requirements to receive training benefits. At the outset, the statute requires that the claimant apply for training benefits within a proscribed deadline. G.L. c. 151A, § 30(c), provides in pertinent part, as follows:

If in the opinion of the commissioner, it is necessary for an unemployed individual to obtain further industrial or vocational training to realize appropriate employment, the total benefits which such individual may receive shall be extended . . . if such individual is attending an industrial or vocational retraining course approved by the commissioner; provided, that such additional benefits shall be paid to the individual only when attending such course and only if such individual has exhausted all rights to . . . benefits under this chapter . . . provided, further, that such extension shall be available only to individuals who have applied . . . no later than the twentieth week of a . . . claim but the commissioner shall specify by regulation the circumstances in which the 20-week application period shall be tolled and the circumstances under which the application period may be waived for good cause. . . .

The review examiner initially denied the claimant's request for training benefits after concluding that she had not established good cause for failing to timely file her application before the end of her twentieth compensable week. 430 CMR 9.06 allows the [20]-week² application period to be tolled or extended for good cause if certain enumerated conditions occur. The review examiner found that during the hearing with Review Examiner Cronin, the claimant alleged that the first time she found out about her ability to file for TOP benefits was when she was notified about it from a career counselor in September of 2016. *See Consolidated Finding # 19*. If true, the claimant may be entitled to tolling of the application under 430 CMR 9.06 (3)(c), which provides, in pertinent part:

(c) If DUA fails to comply with the provision of 430 CMR 9.07(3), or if DWD, DUA, or their agents have given the claimant misinformation that causes the claimant to miss the [20]-week deadline, the [20] week period shall be tolled until the date the claimant learns of the eligibility requirements, including application deadlines, for training benefits provided in M.G.L. c. 151A, § 30(c).

The regulations further provide that a claimant may only collect training benefits while she is attending her program, as set forth in 430 CMR 9.07(1):

Benefits provided under M.G.L. c. 151A, § 30(c) are payable only while the claimant is in attendance at the training course. . . .

² Effective August 10, 2016, G.L. chapter 151A, § 30(c), was amended, substituting the time for tolling from 15 weeks to 20 weeks. *See* section 107 of Chapter 219 of the Acts of 2016.

The claimant's appeal to the Board pertains to the circumstances surrounding a training application she allegedly signed on February 7, 2017. *See* Remand Exhibit # 3B. We remanded this case to clarify the numerous representations the claimant made in her appeal to the Board, some of which conflicted with documentary evidence from the initial hearing in this matter; some of which seemed inconsistent with findings from this hearing, as well as the decision from Review Examiner Cronin (whose decision had been entered into the record by this review examiner as Hearings Exhibit # 5); and some of which seemed inconsistent with information in the DUA's UI Online computer database. Our remand order also sought testimony from a representative of the claimant's training program to corroborate information she provided regarding her participation in her program. The claimant failed to provide any such corroboration.

After remand, the review examiner issued her consolidated findings. The findings were further accompanied by a detailed credibility assessment, which she summarized at the outset: "The totality of the claimant's testimony was not credible." Such assessments are within the scope of the fact finder's role, and, unless they are unreasonable in relation to the evidence presented, they will not be disturbed on appeal. *See School Committee of Brockton v. Massachusetts Commission Against Discrimination*, 423 Mass. 7, 15 (1996).

We note that our remand order clearly set forth the areas of inquiry and provided specific questions to be asked at the remand hearing. *See* Remand Exhibit # 4. Despite advance notice of the questions to be put forth, the claimant's testimony was characterized by the review examiner to be "unclear," "not credible," "contradictory," illogical," "unreasonable," and "not true."

Based on the evidence presented in its totality, we conclude the credibility assessment is grounded in reason. Consequently, we decline to disturb it. On the basis of her credibility assessment, the review examiner made extensive and detailed consolidated findings of fact which we summarize and discuss below.

We first note that, despite the claimant's allegation of first learning about the training benefits in September of 2016, the review examiner found that the claimant had previously sought training benefits from the DUA on a previous claim to attend a pharmacy technician program, and that she certified for and received 22 weeks of training benefits from the week ending December 10, 2011, through the week ending May 5, 2012. *See* Findings ## 3 and 4; Remand Exhibit # 8. Therefore, the claimant's assertion regarding her first learning about the ability to file for training benefits is unfounded and negates any good cause for tolling of the application deadline under 430 CMR 9.06.

The consolidated findings and credibility assessment further indicate that the claimant initially filed for training benefits on September 27, 2016, which was after she exhausted her regular benefits, and after her 20th week on her 2016-01 claim. *See* Hearings Exhibit # 2. The claimant sought to earn a dental assistant certificate at the Boston Career Institute (BCI), beginning on October 7, 2016, and ending on July 7, 2017. *See* Finding # 10 and Hearings Exhibit # 4. The claimant waited until September to explore training programs because her regular unemployment benefits had exhausted as of September 3, and she had assumed she would collect unemployment benefits until her benefit year expired on January 28, 2017. *See* Finding # 21. The claimant's application for training benefits was denied on October 22, 2016, because she did not have good cause for filing her application after the 20th compensable week. *See* Finding # 15.

The review examiner found that, while the claimant began attending classes at BCI on October 7, 2016, she stopped taking classes after one week because her application for training benefits was still pending; she did not want to attend classes without training benefits because she could not afford to pay for the program otherwise. The claimant did not consult with any DUA staff before she stopped attending her program. *See Findings ## 11 through 14.*

Although the claimant had stopped attending classes long before the December 1 hearing, she did not inform Review Examiner Cronin that she had stopped attending classes. This review examiner found that she chose not to notify Review Examiner Cronin that she was no longer attending her program so that she would get approved for training benefits, that she replied to Review Examiner Cronin's questions literally and proclaimed she was still "enrolled" in her program, and added that she was "still in good standing." *See Findings ## 22 and 23.* Based on the claimant's testimony, Review Examiner Cronin awarded training benefits from October 7, 2016, through July 7, 2017, in a decision rendered on December 3, 2016.

The review examiner found that, after the claimant was awarded training benefits, she called the DUA "to discuss her Hearings approval" on December 6, 2016. At her request, DUA staff made the weeks available to her for training benefits back to October 8, 2016. The claimant also disclosed that she "did not start at that time" and "will work on getting a new application in." *See Finding # 26 and Hearings Exhibit # 12.*

After speaking with DUA staff on December 6, 2016, the claimant retroactively certified for training benefits between December 12 and 14, 2016, for all of the weeks for which Review Examiner Cronin had found her eligible. The claimant was not in classes during the time for which she certified. She continued to certify for benefits thereafter, through the week ending January 21, 2017, although she was not attending school during that time. The review examiner found that the claimant understood she was certifying for training benefits for weeks when she was not attending classes, but she did so because she needed the money. *See Findings ## 27 through 29.* Pursuant to 430 CMR 9.07(1), the claimant is ineligible to receive any training benefits while not in attendance at the training course.

The totality of the findings and record before us overwhelmingly support conclusions that the claimant not only lacked good cause for failing to timely apply for training benefits before her twentieth compensable week, but also that she engaged in misrepresentations before the DUA in order to obtain and claim those benefits. For all of the reasons set forth above, we, therefore, conclude as a matter of law that the claimant's application for training benefits does not meet the standards and criteria set forth in G.L. c. 151A, § 30(c), and 430 CMR 9.01–9.09.

The review examiner's decision is affirmed. The claimant is not entitled to receive an extension of up to 26 times her weekly benefit rate on her 2016-01 claim under G.L. c. 151A, § 30(c). Furthermore, in view of the review examiner's consolidated findings and credibility assessment finding the claimant's representations to the DUA "not true," "not credible," and "willing to withhold information . . . in order to get [approved] for TOP benefits," the DUA should investigate whether the claimant shall be subject to the provisions of G.L. c. 151A, §§ 69(a) and 25(j).

BOSTON, MASSACHUSETTS
DATE OF DECISION - January 31, 2018



Paul T. Fitzgerald, Esq.
Chairman



Charlene A. Stawicki, Esq.
Member

**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

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