A claimant was not in unemployment during periods of time when he was not searching for work or in communication with his part-time employer (at which he only worked 7 hours) and when he had no transportation to get to work. He was in unemployment after he fixed his car, was available to work full-time, and was making some effort to get back to work.

Board of Review
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Issue ID: 0021 7366 00

BOARD OF REVIEW DECISION

Introduction and Procedural History of this Appeal

The claimant appeals a decision by a review examiner of the Department of Unemployment Assistance (DUA) to deny unemployment benefits beginning April 23, 2017. We review, pursuant to our authority under G.L. c. 151A, § 41, and we affirm in part and reverse in part.

The claimant filed a claim for unemployment benefits with the DUA on May 2, 2017, and the claim is effective April 23, 2017. On May 26, 2017, the DUA sent the employer a Notice of Approval, informing the employer that the claimant was considered to be in unemployment and not subject to disqualification pursuant to G.L. c. 151A, §§ 29(b) and 1(r). The employer appealed the determination to the DUA hearings department. Following a hearing on the merits attended only by the employer, the review examiner overturned the agency's initial determination and denied benefits in a decision rendered on September 9, 2017.

Benefits were denied after the review examiner determined that the claimant was not in unemployment as of April 23, 2017, and, thus, was disqualified under G.L. c. 151A, §§ 29(a), 29(b), and 1(r). After considering the recorded testimony and evidence from the hearing, the review examiner's decision, and the claimant's appeal, we accepted the claimant's application for review and remanded the case to the review examiner to allow the claimant an opportunity to offer evidence. Both parties attended the remand hearing, which was conducted on October 24, 2017. Thereafter, the review examiner returned the case to the Board with her consolidated findings of fact. Following its review of the record and the review examiner's consolidated findings, the Board remanded the case again for a hearing to take additional evidence. Both parties attended the second remand hearing, which took place on February 15, 2018. The review examiner then returned the case to the Board on June 20, 2018. Our decision is based upon our review of the entire record.

The issue before the Board is whether the review examiner's decision, which concluded that the claimant was not in unemployment as of April 23, 2017, is supported by substantial and credible evidence and is free from error of law, where evidence in the record shows that the claimant did not keep in contact with the employer to accept more work after his hours were substantially

reduced, he lacked a reasonable means of transportation following a car accident on May 19, 2017, and he was not actively attached to the labor market until late in 2017.

Findings of Fact

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

1. The claimant applied for work with the employer, as a home health aide after his sister inquired as to whether Mass Heath would allow a family member to take care of her and she was told that they would.

2. On September 14, 2015, the employer hired the claimant for the job of assisting his sister. The number of hours he was given for this assignment was dependent on how many hours Mass Health agreed to pay for his sister's care. When the claimant first started working for the employer, Mass Health provided 56 hours of paid assistance a week, 8 hours a day, 7 days a week, to the claimant's sister. The claimant was paid $15 an hour by the employer for this assignment.

3. Throughout his term of employment with this employer, the only assignment her [sic] worked was the one with his sister.

4. The claimant had a second full time job, 40 hours a week, as a lead supervisor operating room attendant, working at a hospital in [City A]. This job required him to set up operating rooms for surgeries. He started this job in 2014. The claimant was discharged from this job in August 2016. The claimant drove his car from his home to this job in [City K].

5. The claimant never worked as a janitor.

6. The hospital paid the claimant $27,720.70 during the 2nd quarter and $5,599.06 during the 3rd quarter of 2016.

7. The claimant did not request additional hours with the present employer after losing the hospital job because the present employer was providing him with 56 hours of work a week.

8. On March 17, 2017, Mass Health began to decrease the number of hours they would pay for care of the claimant's sister. The hours changed on March 17, 2017 from 56 to 28 (4 hours a day). They changed again on April 1, 2017, from 28 to14 hours (2 hours a day), and once more on April 16, 2017 from 14 to 7 (1 hour a day).

9. The present employer paid the claimant $10,183.25 during the 2nd quarter of 2016, $11,430.75 during the 3rd quarter of 2016, $11,846 during the 4th

quarter of 2016, and $9,933.65 during the 1st quarter of 2017 and $3,574.48 between April 1, 2017 and April 22, 2017.

10. On May 2, 2017, the claimant filed his 2017-01 claim for unemployment benefits because the present employer was only providing him with 7 hours of work a week. This claim was effective April 23, 2017. His benefit rate on this claim is $742. The claimant had two base period employers on this claim, the present employer and the hospital.

11. The employer's method of giving assignments consists of first calling full time employees whose present assignments do not allow them to meet the production requirement of 35 hours a week. If this is unsuccessful then they send out a blast text offering the assignment to all the employees. The assignment is given to the first employee to contact the employer indicating that that wanted to accept it. The employer also sends out a blast text regarding short-term assignments, such as to cover when an employee is absent.

12. When the claimant's sister's hours were cut, and thus the claimant's schedule was reduced, the employer attempted to reach the claimant by phone to offer him new assignments to bring him back up to full time hours. The claimant, however, was not answering his phone and when his sister answered and the employer left a message, the claimant either did not get the message or chose not to respond.

13. The employer sent out group text messages to all the Home Health Aides, including the claimant, on the following dates listing the location and hours of available assignments:

    a. April 10, 2017, [City B], 2 hours a day;
    b. April 14, 2017, [City C], 3 hours a day;
    c. April 14, 2017, [City D], 3 time a week/ 2 hours a day;
    d. April 14, 2017, [City E], 3 times a week/ 2 hours a day;
    e. April 14, 2017, [City F], Monday, Wednesday, Friday, 1 hour a day;
    f. April 14, 2017, [City G], Monday, Wednesday, Friday, 2 hours a day;
    g. April 14, 2017, [City H], Monday and Tuesday, 8 hours a day;
    h. April 25, 2017, [City C], Daily, 8 hours a day;
    i. April 27,2017, [City C] , Monday through Friday, 8 hours a day;
    j. April 27, 2017, [City I], Tuesday and Thursday, 1.5 hours a day; and
    k. May 2, 2017, [City J], daily, 4 hours/day.

14. The claimant did not pay attention to any of the above [described] texts because he believed that all such texts were for temporary one-time assignments which he was not interested in. He also did not consider text blasts to all the employees to be bona fide offers of work that required his attention. He however failed to provide the employer with any reliable means to reach him in order to make bona fide offers of work directly. He did not

answer the phone at that number he had provided them. When his sister answered this phone and the employer left a message, she did not always give him the messages and the claimant did not call them back.

15. The claimant's supervisors tried to reach the claimant by telephone and text from April 26, 2017 through May 15, 2017 in order to ask him to come to the office to discuss his status as a full time employee given than his hours had been decreased. They left messages on his voice mail and/or with his sister/client, who was the one answering the phone when they called. The claimant did not respond.

16. On May 15, 2017, the employer sent the claimant a letter informing him that his status was being changed from full-time to per diem because he was not meeting the productivity requirement for a full-time employee. The letter requested that the claimant contact his supervisor when he received the letter to get further details regarding his new employment status.

17. On May 19, 2017, the claimant had a car accident. He was injured. His doctor restricted him to work that did not require lifting more than 20 pounds. This restriction remained in effect until August 29, 2017, at which time he was released to work full time without restrictions. From May 20, 2017 through August 29, 2017, the claimant was willing to accept full time light duty work that he considered suitable. After August 29, 2017, he was willing to accept any full time work that he considered suitable.

18. The claimant came into the office, the week after May 15, 2017. The employer explained at that time that if he were not going to work 35 hours a week, he would have to change his status to per diem. The claimant stated that he was not available to accept any other assignments at that time and the employer gave him a form to sign stating that his status was changed to per diem.

19. On May 19, 2017, the claimant also lost the use of his car. The claimant usually used his car for transportation and did not know how to use public transportation. He did not take action to learn how to use public transportation after he lost his car. He preferred to rely on Uber, walking and borrowing cars for his transportation. The claimant would have walked three or more miles to get to and from a suitable job.

20. On occasion, the claimant could borrow his wife's car.

21. The claimant's car was fixed the last week of August 2017, but was not insured until the last week of November 2017. Once his car was insured, the claimant was able to accept work that was a significant distance from his home.

22. After his accident, the claimant did not inform the employer of his injury or work restrictions. If he had, the employer would have required him to provide a doctor's note indicating what his restrictions were before allowing him to return to work.

23. The employer had some assignments, other than the one with his sister, that would have meet [sic] the claimant's light duty.

24. The claimant lived at [Street Address A], [City K] MA. There are not many shops or businesses within walking distance of this address. There was no hospital or other medical establishment. There may have been home health work in the area as such work is done in the home and the claimant lived in a residential area.

25. The claimant did not search for or apply for any jobs within a walking distance from his home.

26. The claimant's sister lived in the same building as the claimant, but in a separate apartment. He was, therefore, able to walk to this job. His wife was also available at this location to assist with any heavy lifting the claimant might not be able to do, such as carrying groceries or laundry.

27. The claimant did not inform the employer that his wife was assisting him with his assignments.

28. In addition to his reasons prior to May 19, 2017 for not responding to the employer's offers of work sent by group text, the claimant also did not respond because the job descriptions were not detailed enough for him to know whether they would meet his physical restrictions and transportation restrictions.

29. The claimant was required to submit notes on his clients and to clock in and out when he started and ended an assignment. He failed to do so from August 4 to August 11, 2017. On August 11, 2017, the employer called him to discuss these issues. The claimant's sister/client answered the phone and the employer asked that she tell the claimant to call the office. She stated she would pass on the message. The employer then sent a text message to the claimant regarding these issues and instructed him to call back as soon as he got the message. They also asked that he update the office with a number at which he could be reached since he never answered the phone or responded to message they left at this number. When the claimant did not respond to this message the employer sent another text, during the week beginning August 13, 2017 again reviewing the issue of his not clocking in and not responding to phone calls and texts. The text stated that if they did not hear from the claimant during the week of the 13th, they would take him off the schedule until he came into the office.

30. Sometime in August 2017, the claimant's sister informed the employer that she would be terminating her relationship with it effective August 31, 2017. On September 1, 2017, the employer sent the claimant at text informing him that his assignment with his sister ended on August 31, 2017 and requesting that he let them know if he wanted to take up hours with other patients. The text stated that they currently had a patient in [City L] (which is one town over from [City K]) that needed services 7am to 8am daily. The claimant did not accept this assignment.

31. The claimant's refusal of additional hours with the present employer was unrelated to any employment with another employer, including the hospital he separated from in August 2016.

32. On May 26, 2017, DUA issued a Notice of Approval with Issue Identification Number 0021 7366 00-01, stating that the clamant was considered to be in partial unemployment and not subject to disqualification under Section 29(b) and 1(r) of the law.

33. On December 12, 2017, DUA issued Hearings Appeal Results with Issue 0023 0585 68-02. This decision stated that on May 21, 2017, the claimant was medically released to return to work full time with restrictions of light duty and that on August 29, 2017 he was released to return to work full time without restrictions. This decision also found that the claimant was available for full time work and that he was searching for work at least three times per a week by submitting resumes to and calling potential employers and that he was therefore able, available and actively seeking work for a period starting May 21, 2017.

CREDIBILITY ASSESSMENT:

1) The employer testified that if they had been told that the claimant had been injured they would have required him to provide a doctor's note explaining what his restrictions were. They did not do so. As they would be risking an increase in their insurance rates if the claimant were to be injured on the job doing tasks that he was not physically capable of, this testimony is found to be more credible than the claimant's testimony that he did share this information with them.

2) The claimant's testimony that he could have accepted a full time job up to an hour away from his home, if it was specifically offered to him, as he could have borrowed money for Uber rides was not found to credible. If his estimate of $20 for an hours ride were accurate, which seems unlikely, that would be $40 a day for a job that pays $120 a day before taxes. It seems unlikely that the claimant would have found it reasonable to spend more than a third of his income on transportation. In addition, the claimant did not mention Uber or public transportation as an option when he was asked about transportation at the initial remand hearing on October 24, 2017. If the claimant had seriously considered accepting additional work with the present employer after the loss of his car, then

it would be expected that he would have investigated both of these options and had a working plan as to how he could use them to get to various locations where the employer's e-mails indicated they had assignments. If he had had a working plan, it would be expected that he would have mentioned when he was initially asked about how he was going to get to jobs if he no longer had a car. In addition, after the claimant testified that he would have used Uber to get to job, his representative asked him about whether he would have accepted a full time job in [City C] if the employer had offered it to him. The claimant initial response was that he would have depending on if he had a vehicle and the distance how far away, it was. He only indicated that he would have borrowed money and taken an Uber when his representative reminded him of his earlier testimony.

3) The claimant testified that he did not receive the letter dated May 15, 2017, however given that he did, according to his own testimony, meet with the employer after May 15, 2017, and this letter directed him to contact his supervisor to discuss his job, it is more credible that he did receive the letter, contact his supervisor and that he was then asked to come to the office to discuss his status and sign necessary paperwork.

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 original conclusion is free from error of law. Upon such review, the Board adopts the review examiner's consolidated findings of fact and deems them to be supported by substantial and credible evidence. We further believe that the review examiner's credibility assessment is reasonable in relation to the evidence presented. As discussed more fully below, we conclude that the claimant was not in unemployment beginning April 23, 2017. However, we further conclude that the record does not support a disqualification beyond November of 2017, so he is eligible to receive benefits beginning December 4, 2017.

The issue before the review examiner, and now before the Board, is whether the claimant was in unemployment after he filed his claim for unemployment benefits. G.L. c. 151A, § 29, authorizes benefits to be paid only to those in "total unemployment" or "partial unemployment." These terms are defined by G.L. c. 151A, § 1(r), which provides, in relevant part, as follows:

(1) "Partial unemployment", an individual shall be deemed to be in partial unemployment if in any week of less than full-time weekly schedule of work he has earned or has received aggregate remuneration in an amount which is less than the weekly benefit rate to which he would be entitled if totally unemployed during said week . . . .

(2) "Total unemployment", an individual shall be deemed to be in total unemployment in any week in which he performs no wage-earning services whatever, and for which he receives no remuneration, and in which, though capable and available for work, he is unable to obtain any suitable work.

The above provisions apply at different times during the claimant's benefit year (the year-long period after April 23, 2017). At the time he filed his claim, the claimant was working for this employer. Just prior to filing the claim, his hours were reduced to seven hours per week. *See* Consolidated Finding of Fact # 8. This schedule of hours lasted through August 31, 2017, when the claimant's sole patient, his sister, stopped receiving services from the employer. *See* Consolidated Finding of Fact # 30. During the period of time when the claimant was performing some services for the employer, the partial unemployment section of the law is applicable. However, after the claimant stopped performing any wage-earning services at all, the total unemployment provision applies.

Regardless of whether we are analyzing the claimant's status under G.L. c. 151A, § 1(r)(1), or § 1(r)(2), the claimant must, subject to exceptions not relevant here, remain capable of working full-time, be available to work full-time, and be actively seeking suitable work as required by G.L. c. 151A, § 24(b).[1] The Board has recognized these implicit requirements in the total and partial unemployment analysis. In Board of Review Decision 0002 4818 34 (January 13, 2014),[2] we noted, as to the availability requirement, the following:

> [W]e are obliged to consider the claimant's availability for work under G.L. c. 151A, §§ 29(a), 29(b), and 1(r). Section 29(a) explicitly references that an individual must be 'capable and available for work.' Section 29(b) contemplates the same, as it applies to weeks in which a person has actually performed some work (and, therefore, must have been able and available to work).

Similarly, G.L. c. 151A, § 1(r)(2) provides, in part, that a person is in total unemployment only if he is "unable to obtain any suitable work." The question of whether someone is unable to obtain work contemplates an analysis of what the person has tried to do to become re-employed, including his work search efforts. It is well-established that if the claimant restricts his availability for work too much or was not actively engaged in trying to return to full-time work, he will not be deemed to have been in unemployment. Thus, the claimant's eligibility for benefits under G.L. c. 151A, § 24(b) is closely related to whether he was in unemployment after April 23, 2017.

During the remand hearing, the claimant entered into evidence a decision from the DUA's Hearings Department regarding the claimant's eligibility for benefits under G.L. c. 151A, § 24(b). That decision concluded that the claimant met all of the requirements of the statute beginning May 21, 2017. Consolidated Finding of Fact #33.[3] We certainly respect the decisions and determinations made by other parts of the DUA. However, we are obliged to render a decision in this case based on a full review of the record before us. To do so, we must consider

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[1] G.L. c. 151A, § 24(b), provides, in pertinent part, as follows:

> [An individual, in order to be eligible for benefits under this chapter, shall] . . . (b) Be capable of, available, and actively seeking work in his usual occupation or any other occupation for which he is reasonably fitted . . . .

[2] Board of Review Decision 0002 4818 34 is an unpublished decision, available upon request. For privacy reasons, identifying information is redacted.

[3] We note that the decision does not apply to the period of time from April 23, 2017, through May 20, 2017, which is a period of time before the Board in this case.

everything in the record, not just one other decision rendered by the agency in a single-party hearing.

The decision referenced in Consolidated Finding of Fact #33 is very short and does not reference even a fraction of the issues, testimony, and circumstances the claimant himself testified to during the three days of hearing before the review examiner in this case. As we have noted above, the review examiner's Consolidated Findings of Fact ## 1–32, as well as her credibility assessment, are supported by a reasonable view of the record before us in this case. If we were to ignore those findings, due to Consolidated Finding of Fact # 33, we would not be upholding our statutory duty to "inquire whether the [DUA's] decision was founded on the evidence in the record and was free from any error of law affecting substantial rights." G.L. c. 151A, § 42(b).

We also note that the DUA regularly issues hundreds of administrative determinations and decisions, pursuant to many sections of Chapter 151A. Many of those sections of law in these determinations and decisions overlap and are intertwined. At the end of the DUA's administrative process, the Board is entrusted with applying the law to the facts before it. We must ensure that the law is consistently applied, in light of the various circumstances which can come before the DUA and the various decisions rendered by the agency's review examiners. *See* Dir. of Division of Employment Security v. Fingerman, 378 Mass. 461, 463–464 (1979). Here, we acknowledge the prior decision made pursuant to G.L. c. 151A, § 24(b), but recognize that the information now before the Board is far more complete and fleshed out than what the prior review examiner would have had before her. Clearly, new information and evidence has been provided throughout the administrative process of the issue before us now, and we must consider that evidence. Moreover, the two-party hearing before us, as opposed to the prior one-party hearing before the other review examiner, allows for a better reasoned and considered decision. Thus, we decline to hold that the decision noted in Consolidated Finding of Fact # 33 necessarily means that we must hold that the claimant was able, available, and actively seeking work during the benefit year of his claim and, thus, was in unemployment for the same period of time.

We now turn to the substantive issue. At the outset, we note that the consolidated findings of fact show that the claimant was capable of performing full-time work in his benefit year. Prior to his car accident on May 19, 2017, no restrictions on the claimant are noted. Following the accident, the review examiner found that he was able to work, but with lifting restrictions. Consolidated Finding of Fact # 17. Later in August of 2017, the restrictions were lifted. Thus, the claimant was capable of working full-time since April 23, 2017.

Next we must address the availability and work search aspects of the unemployment analysis. As of April 23, 2017, the start of the claim, the claimant was working seven hours per week for the employer. During the time when he was working so few hours, the claimant was obligated to search for full-time work and make himself available for other suitable work with the employer and other employers. The review examiner's consolidated findings of fact do not indicate that the claimant did so. The review examiner found that the employer tried repeatedly to reach out to the claimant to offer him more work, including both part-time positions and full-time assignments.[4] Consolidated Findings of Fact ##12, 13, and 15. The claimant never responded to

[4] The claimant testified, and the review examiner found, that for a period of time, the claimant was working 96 hours per week (56 hours for the employer and 40 hours for his second employer). *See* Consolidated Findings of Fact ## 2 and 4. Thus, he established a history of working a great number of hours per week. Although we would not require

any of the communications. The review examiner found that the claimant never answered the phone when the employer tried to contact him. The findings suggest that the claimant was not trying to obtain more hours from the employer. He was not making himself available for more work, even though he worked minimally for his sister. Indeed, the findings do not indicate any efforts the claimant made in April and early May of 2017 to obtain more work for himself, either through this employer or any other. Because we believe that the claimant has not shown a genuine attachment to the labor market, a genuine search for full-time work, and continued availability for full-time work, we conclude that he was not in unemployment from April 23, 2017, through the time of his car accident, May 19, 2017.

After the May 19, 2017 accident, the claimant lost the use of his car.[5] He also did not use public transportation to get around. Consolidated Finding of Fact # 19. The claimant's car was not fixed and insured until the end of November of 2017. Consolidated Finding of Fact # 21. The review examiner did not believe that the claimant would have consistently used Uber to get back and forth to a new job.[6] Although the claimant attempted to explain in the second remand hearing that he was not restricting himself to new employment within walking distance to his home, the claimant's testimony during the first remand hearing indicated that he did. Read together, Consolidated Findings of Fact ## 19 and 20 lead to the conclusion that, after his car accident, the claimant was only available for work within walking distance of his home in [City K], Massachusetts.

It is well-established that a claimant's availability may be restricted for good cause. *See* Conlon v. Dir. of Division of Employment Security, 382 Mass. 19, 20–24 (1980). However, if such limitations on availability result in an individual no longer being attached to the labor force, the person will not be considered to be available for work within the meaning of G.L. c. 151A, § 29. *See* Board of Review Decision 0013 6162 28 (May 6, 2015).[7] Here, we conclude that the claimant was simply not genuinely attached to the labor market after May 19, 2017, given his lack of transportation.[8] Moreover, although the claimant suggested during the second remand hearing that he had submitted resumes and applications in an effort to become employed again, the review examiner found that he did not apply for jobs which he could have traveled to during the period when he was without a car. Consolidated Finding of Fact # 25. Therefore, we conclude that the claimant was also not in unemployment for the period of time beginning May 19, 2017.

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the claimant to be continuously searching for 96 hours of work per week, if the employer offered the claimant a suitable full-time position (40 hours per week), it would have been reasonable for him to accept it, even if he also performed one hour of work per day for his sister.

[5] The claimant testified that he had used his car to travel to his other full-time job. *See* Consolidated Finding of Fact # 4.

[6] Again, we note that her assessment of the evidence and the claimant's credibility was reasonable.

[7] Board of Review Decision 0013 6162 28 is an unpublished decision, available upon request. For privacy reasons, identifying information is redacted.

[8] Section 1032(B) of the DUA's Service Representatives' Handbook states that a claimant who "*unreasonably* restricts his or her availability to work in a specific area (*e.g.* downtown area, within walking distance of home, etc.) does not meet" the availability requirements of the law. To determine what is reasonable, the DUA's policy suggests examining prior working arrangements, commuting opportunities, employment opportunities in the area, and the time and expenses of commuting outside the area. Under several of these factors, the claimant has not shown an availability for work, as he testified that he previously drove to work and there were not a lot of work opportunities in his immediate residential area.

The final period at issue here begins in early December of 2017. The claimant's car was fixed and insured at the end of November of 2017. Consolidated Finding of Fact # 21. By that time, he was not receiving any hours from the employer at all. To be actively seeking work, the claimant needed to be pursuing a course of action which reasonably would have resulted in him gaining employment. During the second remand hearing, the claimant testified that he submitted applications and resumes. However, he had no records with him to support his testimony. He admitted to the review examiner that he did not keep a work search log. We recognize that the agency did issue an approval, based on the claimant's work search, for the week of December 17, 2017, through December 23, 2017. *See* Remand Exhibit # 10. In depth testimony about the claimant's work search beginning in December of 2017 was not taken during the hearings. However, we do not think that there is sufficient evidence in the record to deny the claimant benefits after November of 2017. First, the claimant testified to an active work search. Second, his availability is clearly increased, for the reasons noted above. Third, the agency had issued a determination for at least one week of that month. Because there is little in the record to contradict this determination (unlike the voluminous evidence in the record to counter the other review examiner's decision that the claimant met the availability and work search requirements beginning May 21, 2017), we accept the DUA's prior work search determination as an indication that the claimant was beginning an earnest search for work late in 2017. For these reasons, we think that the substantial and credible evidence in the record supports a decision that the claimant is disqualified only through the end of November of 2017. Beginning the week of December 4, 2017, the claimant was in unemployment.

We, therefore, conclude as a matter of law that the review examiner's initial decision to deny benefits indefinitely, beginning April 23, 2017, is supported by the record in part, because the substantial and credible evidence in the record shows that the claimant was not in unemployment until December 4, 2017, when he was available to work, able to work, and reasonably attached to the labor market.

The review examiner's decision is affirmed in part and reversed in part. The claimant is denied benefits for the period from April 23, 2017, through December 3, 2017. He is entitled to receive benefits beginning December 4, 2017, if otherwise eligible.

BOSTON, MASSACHUSETTS
DATE OF DECISION - July 18, 2018

Paul T. Fitzgerald, Esq.
Chairman

Charlene A. Stawicki, Esq.
Member

Member Michael J. Albano 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

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.

SF/rh