

0029 7008 15 (Sept. 23, 2019) – Claimant, who was denied Section 30 benefits because she did not begin training as scheduled, remains ineligible for the program during that period, but has two weeks to submit a new Section 30 application.

Board of Review
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Issue ID: 0029 7008 15

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) 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 December 18, 2017, which was subsequently approved. On June 12, 2018, the claimant mailed an application for training benefits to the DUA, which was granted on July 12, 2018. However, the claimant did not begin her training program as scheduled, because she began new employment on July 2, 2018. That employment ended on December 14, 2018, and the claimant filed a new claim for unemployment benefits on December 18, 2018, which was also subsequently approved.

On February 22, 2019, the claimant mailed another application for training benefits to the DUA, to attend the same training program from the same training provider. That application was denied in a determination issued on March 27, 2019. The claimant appealed the determination to the DUA hearings department. Following a hearing on the merits, which the claimant attended, the review examiner affirmed the agency's determination and denied training benefits in a decision rendered on May 24, 2019.

Training benefits were denied because the claimant had not begun the program as scheduled, and, thus, she was ineligible for training benefits pursuant to G.L. c. 151A, § 30(c). After considering the recorded testimony and evidence from the hearing, the review examiner's decision, and the claimant's appeal, we accepted the case for review. Our decision is based upon our review of the entire record, including information available to us through the DUA's UI Online and JobQuest computer databases.

The issue before the Board is whether the review examiner's initial decision, which concluded that the claimant was ineligible for training benefits because she had not begun her program as scheduled, is supported by substantial and credible evidence and is free of error of law.

Findings of Fact

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

1. The claimant filed a 2017-01 claim for benefits. The effective date of this claim is 12/17/17.
2. The claimant has a bachelor's degree in liberal arts. The claimant gained this degree in 2007.
3. The claimant began employment with a hospital ("Hospital 1") in September or October 2007. The claimant worked for Hospital 1 until 12/14/2018. She worked as a medical interpreter for two years. She then worked as a full-time cancer patient navigator until the end of her employment.
4. The claimant submitted a TOP application to the DUA ("Application 1"). The application was postmarked on 6/12/18.
5. Application 1 is for the medical assistant program at MotoRing Technical Training Institute ("MTTI"). Application 1 indicates that the school's admissions representative filled it out. Application 1 indicates that the program is full-time, five days per week, and thirty hours per week. Application 1 indicates that the program runs from 9/20/18 to 5/14/19.
6. The DUA approved the claimant to participate in TOP for the program described in Application 1 for the period 9/20/18 to 5/19/19. The DUA created an approval notice (Issue Identification Number 0025 8680 70-01). The approval notice is dated 7/12/18.
7. The claimant did not attend the medical assistant program at MTTI in the period 9/20/18 to 5/14/19. The claimant did not start this school program because she gained employment with a hospital ("Hospital 2"). The claimant worked for Hospital 2 from 7/02/18 to 12/14/18. The claimant worked as a full-time community health worker.
8. The claimant filed a 2018-01 claim for benefits. The effective date of this claim is 12/16/18.
9. The twentieth compensable week of the claimant's 2018-01 claim is the week 5/05/19 to 5/11/19.
10. The claimant submitted a TOP application to the DUA ("Application 2"). The application was postmarked on 2/22/19.
11. Application 2 is for the medical assistant program at MTTI. Application 2 indicates that the school's admissions representative filled it out. Application

2 indicates that the program is full-time, five days per week, and thirty hours per week. Application 2 indicates that the program runs from 4/04/19 to 11/14/19.

12. The DUA determined that the claimant was not eligible to participate in TOP for the program described in Application 2. The claimant appealed.

13. As of 5/03/19, the claimant has not attended the medical assistant program at MTTI.

Ruling of the Board

In accordance with our statutory obligation, we review the decision made by the review examiner to determine: (1) whether the 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 findings of fact and deems them to be supported by substantial and credible evidence.

The review examiner 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. The review examiner denied the claimant's request for training benefits because she was not attending her chosen training program as scheduled. "Benefits provided under [Section 30(c)] are payable only while the claimant is in attendance at the training course." 430 CMR 9.07(1).

The claimant's application for training benefits stated the program was to begin on April 4, 2019, and to end on November 14, 2019. However, the claimant had not yet begun training as of the date of the hearing, which was held on May 3, 2019. Consequently, the claimant is ineligible for training benefits because she never began the program as scheduled.

We note that the claimant's first application for training benefits to attend the program beginning on September 20, 2018, had been approved by the DUA, and that she chose not to begin training only because she had secured new employment and stopped certifying for benefits. When the claimant's new job ended, she opened a new claim for unemployment benefits and submitted a new application for training benefits to attend the same training program with the same provider.

We further note that the claimant's chosen program — a medical assistant certificate program at MotoRing Technical Training Institute (MTTI) in Seekonk, MA (MOSES Course ID# 1054908) — is currently listed in JobQuest as being approved for training benefits.¹

¹ See <http://jobquest.detma.org/JobQuest/TrainingDetails.aspx?ti=1054908>.

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, as she failed to begin the program scheduled to start on April 4, 2019.

G.L. c. 151A, § 30(c), does, however, provide that “the commissioner, in his discretion, may extend the period once for not more than two weeks for any applicant whose initial application is denied.” Thus, the claimant may submit a new application for training benefits to attend an approved training program (including the medical assistant certificate program at MTTI, for which she has previously applied), within two weeks of this decision.

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, to attend the training program that began on April 4, 2019, pursuant to G.L. c. 151A, § 30(c).

BOSTON, MASSACHUSETTS
DATE OF DECISION - September 23, 2019



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.

JPC/rh