

**Board of Review  
19 Staniford St., 4<sup>th</sup> Floor  
Boston, MA 02114  
Phone: 617-626-6400  
Fax: 617-727-5874**

**Paul T. Fitzgerald, Esq.  
Chairman  
Charlene A. Stawicki, Esq.  
Member  
Michael J. Albano  
Member**

**Issue ID: 0032 3022 84**

## **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 the claimant benefits as of the effective date of his claim, September 15, 2019. We review, pursuant to our authority under G.L. c. 151A, § 41, and affirm.

On October 17, 2019, the agency initially determined that the claimant was not entitled to unemployment benefits. The claimant appealed and attended the hearing. In a decision rendered on November 26, 2019, the review examiner affirmed the agency determination, concluding that although the claimant was available and actively searching for work, he was not able to work and, thus, was disqualified under G.L. c. 151A, § 24(b), during the period starting September 15, 2019, and indefinitely thereafter. The Board accepted the claimant's application for review.

### **Ruling of the Board**

After considering the recorded testimony and evidence from the hearing, the review examiner's decision, and the claimant's appeal, we conclude that the review examiner's decision to disqualify the claimant pursuant to G.L. c. 151A, § 24(b), is based on substantial evidence and is free from any error of law affecting substantive rights. The evidence before the review examiner on the date of the hearing, November 14, 2019, supports disqualification starting on September 15, 2019, and for an indefinite period of time thereafter.

The Board notes, however, that the claimant has asserted on appeal that he is now able to work. We further note that the claimant uploaded a Health Care Provider's Statement of Capability to his appeal case folder on December 8, 2019, to corroborate his assertion, and this document appears to have been filled out after the claimant saw his provider on December 6, 2019. Based upon this new evidence, which may affect the claimant's eligibility, the Board will implement an end date of December 5, 2019, to the instant G.L. c. 151A, § 24(b), issue. Additionally, the DUA will be asked to investigate and issue a new determination as to whether the claimant meets the requirements of G.L. c. 151A, § 24(b) as of December 6<sup>th</sup>.

The review examiner's decision is affirmed. The claimant is denied benefits for the period from September 15, 2019, to December 5, 2019. A new G.L. c. 151A, § 24(b), issue will be opened with a start date of December 6, 2019.

**BOSTON, MASSACHUSETTS**  
**DATE OF DECISION - December 17, 2019**



Paul T. Fitzgerald, Esq.  
Chairman



Charlene A. Stawicki, Esq.  
Member



Michael J. Albano  
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](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.

SVL/rh