

**Board of Review
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**Paul T. Fitzgerald, Esq.
Chairman
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Member
Michael J. Albano
Member**

Issue ID: 0032 4818 43

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. We review, pursuant to our authority under G.L. c. 151A, § 41, and we affirm in part and reverse in part.

On November 22, 2019, the agency initially determined that the claimant was not entitled to unemployment benefits. The claimant appealed and participated in the hearing. In a decision rendered on February 13, 2020, the review examiner affirmed the agency determination, concluding that the claimant was neither available for, nor actively searching for work and, thus, was disqualified under G.L. c. 151A, § 24(b). 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 is based on substantial evidence and is free from any error of law affecting substantive rights. However, because the claimant was unable to work for three weeks due to her husband's illness, during that period no suitable work was offered to her, and she had previously served her waiting week after being approved for benefits, she is eligible for three approved illness weeks. *See* G.L. c. 151A, § 24(c); DUA Adjudication Handbook, ch. 4, sec. 2(C)(3).

The review examiner's decision is affirmed in part and reversed in part. We affirm the part of the review examiner's decision that concluded the claimant did not meet the requirements of G.L. c. 151A, § 24(b), during the weeks ending September 7, 2019, September 14, 2019, and September 21, 2019. However, we reverse the part of the decision that found her ineligible for benefits during this period, as the claimant is entitled to benefits pursuant to the statute's approved illness exception.

BOSTON, MASSACHUSETTS
DATE OF DECISION - April 6, 2020



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
(See Section 42, Chapter 151A, General Laws, Enclosed)**

The last day to appeal this decision to a Massachusetts District Court is ordinarily thirty days from the mail date on the first page of this decision. However, due to the current COVID-19 (coronavirus) pandemic, the 30-day appeal period does not begin until May 4, 2020ⁱ. If the thirtieth day falls on a Saturday, Sunday, or legal holiday, the last day to appeal this decision is the next business day 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.

SVL/rh

ⁱ See Supreme Judicial Court's Order Regarding Court Operations Under the Exigent Circumstances Created by the COVID-19 (CORONAVIRUS) Pandemic, dated 4-1-20.