

**Board of Review  
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Chairman  
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Member  
Michael J. Albano  
Member**

**Issue ID: 0033 2991 50**

## **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 following the commencement of a medical leave of absence from his employer on October 8, 2019. We review, pursuant to our authority under G.L. c. 151A, § 41, and affirm.

On January 8, 2020, 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 February 4, 2020, the review examiner affirmed the agency determination, concluding that the claimant was not capable of working for medical reasons during the period beginning December 22, 2019, and for an indefinite period of time thereafter, and, thus, was disqualified under G.L. c. 151A, § 24(b). The Board accepts 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 supports disqualification beginning December 22, 2019.

The review examiner's decision is, therefore, affirmed. The claimant is denied benefits for the period beginning on December 22, 2019, and for subsequent weeks, until such time as he meets all of the requirements of G.L. c. 151A, § 24(b).

In rendering this decision, the Board notes that, during the hearing convened on February 3, 2020, the claimant indicated that he was to be re-evaluated by his physician on February 8, 2020, which could affect his eligibility during the period beginning on that date. The Board also notes that, on or about January 10, 2020, the claimant had uploaded into UI Online a document purporting to be a December 31, 2019, note from a medical provider, claiming prospectively that the claimant "is cleared to return to work after February 8, 2020."

The Board views the claimant's sworn testimony during the February 3 hearing (that he was not yet medically cleared to return to work) as superseding the letter he uploaded previously. However, if the claimant's medical provider clears him to return to work after February 8, 2020,

the claimant should submit a new letter from his provider to the DUA describing the date the claimant became capable of work, whether he is capable of full- or part-time work, and setting forth any restrictions on the claimant's ability to work. The claimant may then ask DUA to investigate and to render a new determination as to whether he meets the requirements of G.L. c. 151A, § 24(b), as of the date of that letter.

Similarly, if the claimant attempts to return to work from his medical leave of absence from his base period employer, or if he separates from the employer, he should report the dates and circumstances of his changed employment status to the DUA, to be investigated accordingly.

**BOSTON, MASSACHUSETTS**  
**DATE OF DECISION - February 24, 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 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.

JPC/rh