

**Board of Review
19 Staniford St., 4th 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: 0048 4011 30

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 August 12, 2020, 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 December 23, 2020, the review examiner affirmed the agency determination, concluding that the claimant was not capable of working and, thus, was disqualified under G.L. c. 151A, § 24(b). The review examiner also implemented an indefinite disqualification on the claimant's claim. 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 that the claimant is ineligible for benefits because she is not capable of working, is based on substantial evidence and is free from any error of law affecting substantive rights. However, pursuant to G.L. c. 151A, § 24(c), claimants who are ineligible for unemployment benefits under G.L. c. 151A, § 24(b), may nonetheless be entitled to a maximum of three approved illness weeks in their benefit year under certain circumstances. Here, we take administrative notice of the information contained in the UI Online system, which shows that the claimant was previously awarded three approved illness weeks, including the weeks ending April 18, 2020, and April 25, 2020. We further note that the system also shows that the implementation of the instant decision resulted in the reversal of the approved illness weeks in April, 2020. Because the agency separately determined under G.L. c. 151A, § 24(c), that the claimant is entitled to the above two approved illness weeks in April, the instant decision under G.L. c. 151A, § 24(b), shall not affect those weeks.

The review examiner's decision is affirmed in part and reversed in part. We affirm the portion of the decision denying benefits to the claimant between the weeks ending March 28, 2020, and April 11, 2020, and, as of the week ending May 2, 2020, indefinitely thereafter. However, we reverse the portion of the decision denying benefits to the claimant for the weeks ending April 18, 2020, and April 25, 2020. The claimant is entitled to benefits for these two weeks.

BOSTON, MASSACHUSETTS
DATE OF DECISION - March 29, 2021



Paul T. Fitzgerald, Esq.
Chairman



Michael J. Albano
Member

Member Charlene A. Stawicki, Esq. did not participate in this decision.

If this decision disqualifies the claimant from receiving regular unemployment benefits, the claimant may be eligible to apply for Pandemic Unemployment Benefits (PUA). The claimant may contact the PUA call center at (877) 626-6800 and ask to speak to a Tier 2 PUA Supervisor.

**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 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.