

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

**Issue ID: 0049 7393 65**

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 July 25, 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 March 30, 2021, the review examiner affirmed the agency determination, concluding that the claimant was not capable of, available for, or actively seeking work from May 24, 2020, through August 1, 2020, and, thus, was disqualified under G.L. c. 151A, § 24(b), during that period. 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 he was not capable of working when he filed his claim, 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 that, although the review examiner disqualified the claimant from receiving benefits beginning on May 28, 2020, he did not actually file his claim for benefits until July 1, 2020. Thus, the effective date of this claim is June 28, 2020.

The review examiner's decision is affirmed in part and reversed in part. We modify the effective date of this Issue from May 28, 2020, to June 28, 2020. We affirm the portion of the decision denying benefits to the claimant for the weeks ending July 25 and August 1, 2020. We further affirm the portion of the decision awarding benefits from August 2, 2020, and for subsequent weeks thereafter, if otherwise eligible. However, for the weeks ending July 4, July 11, and July 18, 2020, we reverse the denial of benefits and grant the claimant three illness weeks pursuant to G.L. c. 151A, § 24(c).

**BOSTON, MASSACHUSETTS**  
**DATE OF DECISION - June 3, 2021**



Charlene A. Stawicki, Esq.  
Member



Michael J. Albano  
Member

Chairman Paul T. Fitzgerald, 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 apply at: <https://ui-cares-act.mass.gov/PUA/>. The claimant may also call customer assistance at 877-626-6800 (select the number for your preferred language, then press # 2 for PUA).

**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](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.

JPCA/rh