

**Claimant, whose most recent job as executive director of a public housing authority, worked for two years before that as executive director of another public housing authority, had 21½ years of experience in private sector property management, as well as a bachelor’s degree in business administration and management and a certificate in human resources management, did not establish that an online training program for his master’s degree in public administration was necessary for him to obtain suitable employment. Further, he was not enrolled in the chosen program on a full-time basis. The claimant is ineligible for extended benefits under G.L. c. 151A, § 30(c).**

**Board of Review  
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**Issue ID: 0069 3366 40**

### Introduction and Procedural History of this Appeal

The claimant appeals a decision by a review examiner of the Department of Unemployment Assistance (DUA) denying an extension of the claimant’s unemployment benefits while he participated in a training program. We review, pursuant to our authority under G.L. c. 151A, § 41, and affirm.

The claimant became separated from employment and filed a claim for unemployment benefits on April 1, 2021, which was ultimately approved by the DUA. On May 13, 2021, the claimant submitted an application to the DUA for an extension of benefits to attend a training program (training benefits), which the agency subsequently denied on May 20, 2021. The claimant appealed that determination to the DUA hearings department. Following a hearing on the merits attended by the claimant, the review examiner affirmed the agency’s initial determination and denied training benefits in a decision rendered on September 21, 2021. We accepted the claimant’s application for review.

Training benefits were denied after the review examiner concluded that the claimant’s chosen program was not necessary for the claimant to obtain suitable employment, in view of his education and experience, and, thus, the claimant did not meet the requirements for training benefits pursuant to G.L. c. 151A, § 30(c), and 430 CMR 9.00 *et seq.* Our decision is based upon our review of the entire record, including the recorded testimony and evidence from the hearing, the review examiner’s decision, and the claimant’s appeal.

The issue before the Board is whether the review examiner’s decision, which concluded that the claimant was ineligible for training benefits because his chosen program was not necessary for him to obtain suitable employment in view of his education and experience, is supported by substantial and credible evidence and is free from error of law.

### Findings of Fact

The review examiner's findings of fact are set forth below in their entirety:

1. On March 31, 2021, the claimant separated from his most recent employer, a quasi-municipal entity, a public housing authority, where he worked as the Executive Director. The claimant was paid an annual salary of \$130,000.00.
2. On April 1, 2021, the claimant filed his claim for unemployment benefits with the Department of Unemployment Assistance (DUA) with an effective begin date of March 28, 2012 [sic] and an effective end date of March 26, 2022.
3. The claimant had previously, for two years, held the position of Executive Director of the [Agency A] in [Town A], Rhode Island.
4. The claimant has 21½ years' experience in the private sector in affordable housing property management.
5. The claimant's contract of employment with the employer expired on March 31, 2021.
6. The claimant could have renewed his contract with the employer for a 4-year period.
7. The claimant chose not to renew the contract.
8. The claimant has an undergraduate degree in Business Administration and Management awarded in 2017.
9. The claimant is also certified in Human Resources management.
10. The claimant wanted to expand beyond public housing employment, a contract position, and get a job without a contract.
11. The positions the claimant wanted to pursue favored applicants with a Masters in Public Administration: "the only box I don't have checked."
12. On May 13, 2021, the claimant submitted by email to the Department of Unemployment Assistance (DUA) a Section 30 Training Opportunities Application to attend a Masters Degree program in Public Administration at a college.
13. PART C of the application was completed by the educational institution which set forth the following:
  - "1. Name of certificate or Degree Program the claimant has applied to /is enrolled in. (*If degree, specify if Associate?, Bachelor?, Master,, etc.*)" NOT STATED

“3. Will the claimant be a full-time or part-time student?”

X Part-time”

“4F. Classes are held in the (check all that apply)

X OnLine”

“5. Credits per semester

Include the total number of in-class hours per week for each period.

<b>Period</b>	<b>Starts on</b>	<b>Ends on</b>	<b># of Semester Credits</b>	<b># of In-Class Hours Per Week</b>
Summer 1	05/03/2021	– 06/26/2021	3	18
Summer 2	06/28/2021	– 08/21/2021	3	18
Fall	08/30/2021	– 12/18/2021	6	18
Winter				
Spring	01/10/2022	– 04/30/2022	6	18

14. The claimant did not start the program on May 3, 2021, due to financial aid issues.

15. The claimant has not yet started the program.

16. On August 8, 2021, the college issued a letter to the DUA stating students in the Master of Public Administration Program expect to spend 17-20 hours per week in each term’s 3-credit 8-week online course.

### Ruling of the Board

In accordance with our statutory obligation, we review the decision made by the review examiner to determine: (1) whether the findings are supported by substantial and credible evidence; and (2) whether the review examiner’s original conclusion is free from error of law. After such review, the Board adopts the review examiner’s findings of fact except for Findings of Fact ## 6–7, where he found that the claimant could have renewed his contract for a four-year period but chose not to. These findings are inconsistent with the claimant’s uncontested testimony during the hearing (as well as with documents he uploaded with his appeal to the Board) that the employer chose not to renew the claimant’s contract, which expired on March 31, 2021.<sup>1</sup>

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<sup>1</sup> We note the claimant’s objection to Finding of Fact # 15, where he claims on appeal to the Board that he had begun this program in 2019. While the claimant may have originally started the program in 2019, he had not begun the training program on May 3, 2021, as set forth in his training application, due to financial aid issues. The lack of clarity in this Finding does not affect our decision here.

In adopting the remaining findings, we deem them to be supported by substantial and credible evidence. Furthermore, we agree with the review examiner's legal conclusion that the claimant is not entitled to training benefits, as discussed more fully below

The review examiner's decision to deny the claimant's application for training benefits derives from G.L. c. 151A, § 30(c), which relieves claimants who are enrolled in approved training programs of the obligation to search for work and permits extensions of up to 26 weeks of additional benefits. Under G.L. c. 151A, § 30(c), it is the claimant's burden to prove that he fulfills all of the requirements to receive a training extension.

The regulations that govern training benefits establish both procedures and standards for approving training programs themselves, as well as the eligibility criteria for claimants seeking to participate in such programs. *See* 430 CMR 9.01–9.09. In order to qualify for training benefits, a claimant must be “unlikely to obtain suitable employment based on their most recently utilized job skills.” 430 CMR 9.03(1). Further, 430 CMR 9.03(3)(b) states, in relevant part, that, in order to establish that he is “unlikely to obtain suitable employment,” a claimant must show that he

requires training to become re-employed in his . . . current occupation, because his . . . present skills in that occupation are insufficient or are technologically out of date; provided, however, that a claimant possessing sufficient skills in his . . . current occupation to obtain suitable employment in that occupation shall not be determined to be in need of training, unless the claimant has separated from a declining occupation or is unemployed as a result of a permanent reduction of operations and the claimant is training for a demand occupation.

The review examiner's initial conclusion relied, in part, on the erroneous findings that the claimant could have renewed his contract with his most recent employer, but that he chose not to. *See* Findings of Fact ## 6–7. As noted above, the findings upon which this portion of his conclusion is based were inconsistent with the claimant's testimony.

However, we conclude, as a matter of law, that the review examiner's conclusion otherwise properly applied the law to the rest of the facts that he found. The claimant most recently earned a salary of \$130,000.00 as executive director of his most recent base period employer. *See* Finding of Fact # 1. Prior to this job, the claimant had worked for two years as an executive director of another public housing authority in Rhode Island. *See* Finding of Fact # 3. He has 21½ years of experience in private sector property management. *See* Finding of Fact # 4. He also has a bachelor's degree in business administration and management, as well as a certificate in human resources management. *See* Findings of Fact ## 8–9.

While the claimant may prefer to search for employment in other fields with a degree in public administration, the review examiner properly concluded that this program is not necessary to obtain suitable employment, in view of the claimant's current educational background and substantial employment experience. Thus, we conclude that the claimant's training program does not meet the requirements of 430 CMR 9.03.

We further note that the claimant's application for training benefits appears to fail on a separate ground. The DUA regulation at 430 CMR 9.04(2)(b)(1) requires that a claimant attend his chosen

program on a full-time basis, which is quantified as at least 12 credits per semester for a program offered by a college or university. According to his application for training benefits, the claimant planned to take no more than six credits per term. *See* Finding of Fact # 13 and Exhibit 6.<sup>2</sup> Where the claimant's proposed course of study fails to satisfy the minimum number of credits to constitute full-time study, he fails to meet his burden under 430 CMR 9.04(2)(b)(1).

The review examiner's decision is affirmed. The claimant is not entitled to receive an extension of up to 26 times his weekly benefit rate while attending this training program pursuant to G.L. c. 151A, § 30(c).

**BOSTON, MASSACHUSETTS**  
**DATE OF DECISION - December 14, 2021**



Paul T. Fitzgerald, Esq.  
Chairman



Michael J. Albano  
Member

Member Charlene A. Stawicki, Esq. 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 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

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<sup>2</sup> We further note that the claimant in his May 21, 2021, appeal for the hearing conceded, "THE COLLEGE PROGRAM IS A PART-TIME ONLINE PROGRAM..." *See* Exhibit 3 (emphasis in original).