

**Board of Review
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Member
Michael J. Albano
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Issue ID: 0069 9943 82

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 him benefits from the week beginning May 23, 2021 through April 2, 2022. We review, pursuant to our authority under G.L. c. 151A, § 41, and affirm.

On June 29, 2021, 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 April 26, 2022, the review examiner affirmed the agency determination, concluding that the claimant was not capable of and available for full-time work, and was not actively seeking work, and, thus, he was disqualified under G.L. c. 151A, § 24(b). However, the review examiner modified the determination by ending the disqualification on April 2, 2022. The Board accepted claimant's application for review.

Ruling of the Board

As noted above, the review examiner disqualified that the claimant on grounds that he was not capable of and available for full-time work and was not actively seeking work from May 23, 2021, through April 2, 2022. However, in accordance with federal guidance relating to the COVID-19 public health emergency, the DUA had waived "work search requirements until such time as the COVID-19 emergency measures have been lifted." DUA UI Policy and Performance (UIPP) Memorandum 2020.15 (Nov. 25, 2020), p. 2.

This temporary policy was in effect from March 8, 2020, until June 14, 2021. *See* UIPP 2021.04 (Jun. 15, 2021). As such, the claimant's work search requirement under G.L. c. 151A, § 24(b), was waived from the beginning of his claim, effective the week beginning November 22, 2020, until the week ending June 12, 2021. As of the week beginning June 13, 2021, the claimant has been obligated to actively search for new employment.

We believe that, even if the review examiner had correctly applied DUA's temporary COVID-19 policy modifications to the facts of this case, the outcome of the decision would remain the same. Because the claimant reported that he was not capable of and available for work as a result of his medical condition, he does not meet the requirements of § 24(b).

After considering the recorded testimony and evidence from the hearing, the review examiner's decision, and the claimant's appeal, we therefore conclude that the review examiner's decision is based on substantial evidence and is free from any error of law affecting substantive rights.

The review examiner's decision is affirmed. The claimant remains ineligible to receive benefits from the week beginning May 23, 2021, through April 2, 2022.



Paul T. Fitzgerald, Esq.
Chairman

BOSTON, MASSACHUSETTS
DATE OF DECISION - June 27, 2022



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

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.

JMO/rh