

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

Issue ID: 0070 8556 93

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 her benefits. We review, pursuant to our authority under G.L. c. 151A, § 41, and we affirm in part and reverse in part.

On September 24, 2021, the agency initially determined that the claimant was not entitled to unemployment benefits for the week beginning June 20, 2021. The claimant appealed and attended the hearing. In a decision rendered on June 29, 2022, the review examiner affirmed the agency determination, concluding that the claimant was not capable of, available for, or actively seeking full-time work during the relevant timeframe, and, thus, was disqualified under G.L. c. 151A, § 24(b). 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 is based on substantial evidence and is free from any error of law affecting substantive rights.

However, we note that, 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 (3) approved illness weeks in their benefit year under certain circumstances.

In the hearing decision, the review examiner found that the claimant was unable to work at all during the week beginning June 20, 2021. The findings do not indicate that the claimant was available for work, or that she was offered any work at any time. We also note that the DUA's electronic record-keeping system, UI Online, shows that she had been approved for and paid benefits in prior weeks under her claim and there is no indication that the claimant had been otherwise disqualified for benefits for that week pursuant to any other provision of the law. This means that the claimant was otherwise eligible for benefits. Consequently, the claimant was eligible for illness week benefits while she was unable to work for medical reasons.

We, therefore, conclude as a matter of law that the claimant has not shown that she was able, available for, and actively seeking work for the week beginning June 20, 2021, as required under G.L. c. 151A, § 24(b). We further conclude that, pursuant to G.L. c. 151A, § 24(c), the claimant is entitled to one (1) week of benefits due to illness.

The review examiner's decision is affirmed in part and reversed in part. The claimant is entitled to one (1) illness week of benefits for the week beginning June 20, 2021.



Charlene A. Stawicki, Esq.
Member

BOSTON, MASSACHUSETTS
DATE OF DECISION - August 19, 2022



Michael J. Albano
Member

Chairman Paul T. Fitzgerald, 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