

**Where the university deemed its MBA program to be full-time even though it assigned only six credits to each quarter term, held the claimant met the full-time training requirements of 430 CMR 9.04(2)(b)(1). The claimant was eligible for training benefits pursuant to G.L. c. 151A, § 30(c), while attending full-time.**

**Board of Review  
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**Issue ID: 0080 9062 17**

### 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 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 we affirm in part and reverse in part.

The claimant separated from his employment and filed a claim for unemployment benefits with the DUA, effective January 8, 2023, which was approved. Subsequently, he filed an application for an extension of benefits to attend a training program (training benefits or Section 30 benefits), which was denied in a determination issued on August 19, 2023. The claimant appealed the determination to the DUA hearings department. Following a hearing on the merits, the review examiner affirmed the agency's determination and denied training benefits in a decision rendered on November 4, 2023. We accepted the claimant's application for review.

Training benefits were denied after the review examiner determined that the claimant's training program was not full-time, and, thus, he was not eligible pursuant to G.L. c. 151A, § 30(c), and 430 CMR 9.04(2)(b). 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's training program was not full-time within the meaning of 430 CMR 9.04(2)(b), 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. The claimant filed his claim for unemployment benefits with an effective date of [] January 8, 2023. Prior to filing his claim for unemployment benefits, the claimant was working as a full-time Program Director. The claimant was laid off from employment. There was no chance of recall to that position.

2. The claimant has a bachelor's degree in Science and Political Communications from [University A]. The claimant obtained that degree in December 2014.
3. The claimant has work experience as Digital Director and a Director of Marketing and Communications.
4. After filing his claim for unemployment benefits, the claimant was looking for work in his field, but was unable to secure employment. The claimant was informed by recruiters that his skills were not transferable to the "for profit" field.
5. On July 21, 2023, the claimant submitted a Training Opportunity Program Application to participate in the master's in business administration (with a concentration in finance and supply chain) at [University B]. The program has a start date of August 14, 2023, and a completion date of November 3, 2025. The total number of credits to complete the master program is 54 credits. The training program came [sic] be completed either on-line or in person.
6. The claimant began the program on August 14, 2023. The program is divided into quarters.
7. The quarters and credits listed on the Training Opportunities Application are as follows:

Quarter	Credits
8/14/23 - 11/2/23	6
11/6/23 – 2/8/24	6
2/12/24 – 5/2/24	6
5/13/24 – 8/1/24 (summer session)	7.5
8/12/24 – 10/31/24	6
11/4/24 – 2/13/25	6
2/17/25 – 5/8/25	7.5
5/8/25 - 8/12/25 (summer session)	6
8/12/25 – 11/3/25	3

8. [University B] considers the 6 credits per semester to be full-time (indicating that it is the equivalent of 9 credits per regular semester).
9. The claimant is currently taking courses Monday, Tuesday, and Thursday from 6:00 p.m. to 8:00 p.m. The claimant is in a 6 hour live lecture for each course and 6 hours of recorded lecture, along with 20 hours of course work per week.
10. Upon completion, the claimant will receive a master's degree in business administration (with a concentration in finance and supply chain). With that degree the claimant will be able to obtain a position in public affairs, as a public information officer or in investor relations.

11. On August 19, 2023, a Notice of Disqualification was issued under Section 30(c) of the Law, indicating “You are in attendance at a program and your application for school or training approval was denied pursuant to the above cited section of the Law because the program is not full-time. You are not eligible to receive up to 26 weeks times your weekly benefit rate in additional benefits while attending the full-time program.” [sic] “You are not eligible to receive up to 26 times your weekly benefit rate in additional benefits while attending the program. Important Information Training approval was denied because the program you are attending is not full-time and because your program will not be completed within two years. School: [University B] Program: Masters Degree Major: Business Administration Class/Training Start Date: 08/14/2023 Class/Training End Date: 11/03/2025.” The claimant filed an appeal to that determination.

### Ruling of the Board

In accordance with our statutory obligation, we review the record and 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 conclusion is free from error of law. After such review, the Board adopts the review examiner’s findings of fact except as follows. We reject the portion of Finding of Fact # 5, which states that the claimant filed his Training Opportunity Program Application on July 21, 2023, as the applicable exhibit shows that it was filed on August 4, 2023.<sup>1</sup> We further reject the portion of Finding of Fact # 9, which states that *each* of the claimant’s courses involves six hours of live lecture and six hours of recorded lecture, as this is also inconsistent with the claimant’s testimony that each course involves four hours of live and recorded lecture combined. In adopting the remaining findings, we deem them to be supported by substantial and credible evidence. However, as discussed more fully below, we disagree with the review examiner’s legal conclusion that the claimant is ineligible for Section 30 benefits.

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. The procedures and guidelines for these training benefits are set forth in 430 CMR 9.00–9.09.

One of the requirements for approval is that the student be enrolled full-time. Specifically, 430 CMR 9.04 provides, in relevant part, as follows:

- (2) Training providers, and in particular, the training they offer must meet the following measurable standards: . . .

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<sup>1</sup> See Exhibit 1, a copy of the claimant’s Section 30 application sent to DUA via email, dated August 4, 2023. While not explicitly incorporated into the review examiner’s findings, this document, as well as Exhibit 14 and the referenced portion of the claimant’s testimony, are part of the unchallenged evidence introduced at the hearing and placed in the record, and they are thus properly referred to in our decision today. See Bleich v. Maimonides School, 447 Mass. 38, 40 (2006); Allen of Michigan, Inc. v. Deputy Dir. of Department of Employment and Training, 64 Mass. App. Ct. 370, 371 (2005).

(b) Be a full-time course, providing a minimum of at least 20 hours of supervised classroom training per week; provided, however, that:

1. if the program is offered by a community college, college, or university, this requirement shall be met if the program provides a minimum of 12 credits each semester *or the equivalent*; ...

(Emphasis added.)

The claimant's Section 30 application shows that the claimant will be enrolled in six credits for all terms starting August 14, 2023, except the final August 12 – November 3, 2025, term, when he will take three credits. Finding of Fact # 7. Despite this proposed enrollment schedule, the review examiner relied instead upon the claimant's testimony and an updated letter from the training program, Exhibit 14, dated August 28, 2023. This letter states that the claimant had planned an accelerated schedule, taking seven and a half credits per quarter beginning in his second quarter through the spring of 2025, so that he would finish at the end of the summer quarter in August, 2024. We can reasonably infer that the review examiner accepted this as credible evidence, because she concluded that the claimant met the two-year training requirement under 430 CMR 9.04(2)(c). However, because the claimant would not be taking 12 credits in any of these terms, the review examiner concluded that the claimant did not meet the full-time enrollment requirement under 430 CMR 9.04(2)(b)(1). We disagree.

The review examiner failed to consider whether this training program was *the equivalent* of a full-time course within the meaning of 430 CMR 9.04(2)(b)(1). In Figueroa v. Dir. of Department of Labor and Workforce Development, the Massachusetts Appeals Court observed, "The credit-hour proviso thus provides for an alternative, not an exclusive, basis for approval of courses provided by colleges, universities, or community colleges." 54 Mass. App. Ct. 64, 68 n. 7 (2002). The court inferred that the DUA inserted the "or the equivalent" clause to add a measure of elasticity to the regulation due to the agency's conclusion that many college or university programs that are likely to assist unemployed people with acquiring new skills could not be identified simply by the credit hours assigned. Id. at 71–72.<sup>2</sup>

In this case, the record shows that the university considers six credits to be full-time enrollment in this graduate program. *See* Finding of Fact # 8. Thus, we are satisfied that the program is the *equivalent* of a full-time course of study during the quarters that the claimant is enrolled in six or seven and a half credits. *See* Board of Review Decision 0028 9165 35 (Aug. 29, 2019) (Board authorized Section 30 benefits while the claimant was enrolled in six credits during a summer term, because the community college considered six credits to be full-time for the summer session).

During his final quarter, however, it appears that claimant will enroll in only three credits. *See* Finding of Fact # 7 and Exhibit 14. Inasmuch as this is less than full-time for this training program, the claimant will no longer be entitled to training benefits because will no longer be a full-time student.

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<sup>2</sup> The Figueroa case was reviewing the 1997 amendments to the Section 30 regulations. *See* 54 Mass. App. Ct. at 71. Here, we are applying the most recent, 2019 amendments. Although renumbered, the provision at issue in the present appeal remains the same as it was in the 1997 regulation. *See* 430 CMR 9.05(2)(b)(1)(1997).

We, therefore, conclude as a matter of law that the claimant is entitled to training benefits pursuant to G.L. c. 151A, § 30(c) and 430 CMR 9.04(2)(b)(1), while enrolled in his Master's in Business Administration program full-time.

The review examiner's decision is affirmed in part and reversed in part. The claimant is entitled to receive an extension of up to 26 times his weekly benefit rate, and a waiver of the availability and work search requirements, while attending this program from the week beginning August 13, 2023, through May 10, 2025, if otherwise eligible. The claimant is not eligible for any Section 30 benefits beginning May 11, 2025.

**BOSTON, MASSACHUSETTS**  
**DATE OF DECISION - March 18, 2024**



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.

AB/rh