

The claimant is entitled to training benefits under G.L. c. 151A, § 30(c) and 430 CMR 9.03 and 9.04, while enrolled full-time in her master's degree program. She demonstrated she is unlikely to obtain suitable employment and is in need of training because her provisional teaching license is about to expire and state law requires a master's degree in order to teach in Massachusetts. Her current skills, including her bachelor's degree and teaching experience, are insufficient to become re-employed.

**Board of Review
100 Cambridge Street, Suite 400
Boston, MA 02114
Phone: 617-626-6400
Fax: 617-727-5874**

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

Issue ID: 0083 5070 20

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 she was participating in a training program. We review, pursuant to our authority under G.L. c. 151A, § 41, and reverse.

The claimant separated from employment and was approved for benefits under a 2024-01 claim, with an effective date of May 5, 2024. Subsequently, she filed an application for an extension of benefits to attend a training program (training benefits), which the agency denied in a determination dated October 22, 2024. The claimant appealed the 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 December 24, 2024. We accepted the claimant's application for review.

Training benefits were denied after the review examiner concluded that the claimant's program was not necessary for the claimant to obtain suitable employment in view of her 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 did not need further training to continue working as a teacher, 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 a claim for unemployment benefits with an effective date of 5/5/24.

2. Prior to filing for benefits, the claimant worked as an integrated preschool teacher. She earned about \$64,000 in her position.
3. The claimant has a bachelor's degree in early childhood.
4. The claimant's prior work history involves working as a teacher, an interventionist, and as a paraprofessional in schools.
5. The claimant is pursuing her master's degree at a local college. The state requires the claimant obtain a master's degree to continue to hold a teaching license.
6. The state issues waivers for teachers while they pursue higher education.
7. The claimant has a year left of her waiver time.
8. The claimant began her college classes in October 2023. She has taken 1 course every eight weeks. Each course is equivalent to 3 credits. The courses have all been online. They are scheduled from 4:30 p.m. to 9:30 p.m. on one day of each week during the eight-week session.
9. On 1/2/25, the claimant will be expected to complete her practicum as well as her course work. She will need to dedicate about 40 hours per week to her schoolwork.
10. The claimant is scheduled to obtain her master's degree in May 2025.
11. In August/September 2024, the claimant submitted a TOP application seeking approval for the program. The application was later corrected to show the correct end date of the program to be 4/25/25.

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 # 9 that states that the claimant needed to complete her training program by January 2, 2025, because it conflicts with Findings of Fact ## 10 and 11, and the record shows that the claimant began her training program full-time on January 2, 2025.¹ In adopting the remaining findings, we deem them to be supported by substantial and credible evidence. However,

¹ See Exhibit 12, a letter from the Associate Dean, School of Education, dated December 20, 2024. While not explicitly incorporated into the review examiner's findings, Exhibit 12 and the claimant's testimony referenced below, 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).

as discussed more fully below, we reject the review examiner's legal conclusion that the claimant is ineligible for training 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 approving training benefits are set forth in 430 CMR 9.00–9.08.

The main issues before us are: (1) whether the claimant is unlikely to obtain suitable employment based on her most recently utilized job skills and (2) whether she needs training to become re-employed. The requirements are found under 430 CMR 9.03, which state in relevant part:

(1) Claimants may be eligible for approved training if it is determined that they are permanently separated from work, unlikely to obtain suitable employment based on their most recently utilized job skills, the requested training is for a demand occupation and:

(a) They are in need of training to become re-employed; . . .

Implicit in the findings is that the claimant needs a teaching license to work as a pre-school teacher. *See* Finding of Fact # 5. As the claimant explained, she started teaching with her bachelor's degree in early childhood education under a provisional license, but the state requires that she obtain a master's degree to continue holding a teaching license. *See* Findings of Fact ## 3 and 5. She has been able to continue performing this work without the master's degree under a waiver, but this waiver will expire in approximately December, 2025. *See* Findings of Fact ## 5–7.² At issue is the approval to obtain training benefits while she completes the master's degree program necessary for continued licensure. *See* Findings of Fact ## 8–11.

In her decision, the review examiner concluded that the claimant did not demonstrate that she could not find suitable employment, because she could continue teaching for one more year under the state's waiver. We disagree. While the claimant does have experience teaching, the record shows that she has been unable to become re-employed as a pre-school teacher.

The claimant testified that, since losing her last job, she has been unable to find another job despite actively searching for work. In a separate hearing decision, this review examiner concluded that the claimant had actively searched for full-time work every day since filing her claim seven months earlier and, despite several interviews, had not received an offer. *See* Issue ID # 0084 0649 95. From this, we can reasonably infer that candidates with master's degrees, or at least those with more time left under their provisional license, are hired instead.

In short, state law dictates that the claimant must obtain a master's degree in order to maintain her license to teach. Finding of Fact # 5. Because her existing license will soon expire, she is not able to get a job, and she needs the requested training program in order to become reemployed.

² We can infer that her waiver will expire in December, 2025, a year from when this testimony was provided at the December, 23, 2024, hearing.

Under these circumstances, the claimant meets the criteria under 430 CMR 9.03. She is unlikely to obtain suitable employment based on her most recently utilized skills, and she is in need of training to become re-employed.

The DUA regulations also provide that claimants will only be eligible for training benefits while enrolled full-time in their training program. Specifically, 430 CMR 9.04(2)(b), states, in relevant part as follows:

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

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

The claimant is required to complete a practicum and course work, totaling 40 hours per week. Finding of Fact # 9. Although not explicitly in the findings, exhibit 12 shows that the claimant will be taking 9 credits and will have to work in a school for approximately 20 hours per week under a Practicum Supervisor and Supervising Practitioner. Exhibit 12 also shows that the claimant's program starts on January 2, 2025, and ends on May 2, 2025. Thus, the claimant satisfies the full-time enrollment requirement during this period.

We, therefore, conclude as a matter of law that the claimant meets the eligibility requirements for training benefits pursuant to G.L. c. 151A, § 30(c), and 430 CMR 9.03 and 9.04.

The review examiner's decision is reversed. The claimant is entitled to receive up to 26 times her weekly benefit rate pursuant to G.L. c. 151A, § 30(c), while enrolled in the requested master's degree program from January 5, 2025 to May 3, 2025, if otherwise eligible.

BOSTON, MASSACHUSETTS
DATE OF DECISION - February 26, 2025



Paul T. Fitzgerald, Esq.
Chairman



Charlene A. Stawicki, Esq.
Member

Member Michael J. Albano 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.

MR/rh