

Held the claimant was eligible for extended benefits pursuant to G.L. c. 151A, § 30(c), while participating in a Bachelor's degree accounting program. To establish his eligibility, the claimant has shown that there was good cause to waive the 20-week application period, that he needed this degree to obtain suitable employment, that he would be enrolled full-time, and that he would complete the training program within two years.

**Board of Review
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Issue ID: 0083 8256 72

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 reverse.

The claimant separated from his employment and filed a claim for unemployment benefits with the DUA, effective January 7, 2024, which was approved. Subsequently, he filed an application for an extension of benefits to attend a training program (training benefits), which was denied in a determination issued on November 15, 2024. The claimant appealed the determination to the DUA hearings department. Following a hearing on the merits, the review examiner affirmed the agency's initial determination and denied training benefits in a decision rendered on January 16, 2025. We accepted the claimant's application for review.

Training benefits were denied after the review examiner determined that the claimant failed to demonstrate that he would be attending his training program full-time, and, thus, he was not eligible for the extended unemployment benefits pursuant to G.L. c. 151A, § 30(c). After considering the recorded testimony and evidence from the hearing, the review examiner's decision, and the claimant's appeal, we remanded the case to the review examiner to consider documents submitted with the claimant's Board appeal and to obtain further evidence regarding the claimant's enrollment during the final terms of his training program. Following a remand hearing, the review examiner issued her consolidated findings of fact. Our decision is based upon our review of the entire record.

The issue before the Board is whether the review examiner's decision, which concluded that the claimant was entitled to a waiver of the Section 30(c) application deadline for good cause, that he needed the training to obtain suitable employment, but that he was ineligible for training benefits due to failing to prove full-time enrollment after March, 2024, is supported by substantial and credible evidence and is free from error of law.

Findings of Fact

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

1. On December 1, 2023, the claimant permanently separated from employment.
2. The claimant filed a claim with the Department of Unemployment (DUA), effective January 7, 2024.
3. On February 26, 2024, the claimant acknowledged that he was given written information regarding the Training Opportunity Program including the 20-week filing period.
4. On May 21, 2024, DUA issued a Notice of Disqualification stating that the claimant was not eligible to receive up to 26 times his weekly benefit rate in additional benefits while attending a BS Accounting program from May 6, 2024, to March 1, 2026. This program shall hereafter be referred to in this decision as "The Program." The reason for denial was failure to fully complete the application, failing to establish that he needed the training, and not being enrolled full-time.
5. The May 21st notice stated on it, "If your enrollment circumstances change, you may reapply for the Training Opportunities Program (Section 30) timely if it is done so within the 20th compensable week of your Unemployment Insurance claim or within two weeks from the date of this determination."
6. The May 21st notice also included instructions on how to appeal the disqualification.
7. The claimant called the DUA help line for assistance as to what he should do to move forward with getting TOP benefits. He was told that the issue that caused the denial appeared to be that the claimant's advisor had not put in the school's name and that the claimant had not given consent for DUA to talk to the school. The claimant left the conversation with the understanding that, if he still wanted the TOP benefits, he should file an appeal rather than submit a new TOP application.
8. On May 29, 2024, the claimant appealed the May 21st determination. He did not understand that he could also file a new application for TOP or that the appeals process could take months to run its course.
9. June 1, 2024, was the 20th compensable week of the claimant's 2024-01 claim.
10. On June 18, 2024, a hearing was held regarding the May 21, 2024, determination.
11. On June 22, 2024, a hearing decision was issued affirming the May 21, 2024, determination.

12. On June 22, 2024, the claimant appealed the hearings decision to the Board of Review.
13. July 8, 2024, the Board of Review accepted the claimant's request for appeal.
14. On September 4, 2024, the Board of Review affirmed the June 22, 2024, hearing decision.
15. The claimant again called the DUA help line for assistance again [sic]. He was very distraught on the phone. He was advised that, in May/June 2024, he should have resubmitted the TOP application, and included the information he had not included initially, instead of appealing the determination. He was advised to submit that new application at this time.
16. On September 13, 2024, the claimant filed a new TOP application for the BS Accounting program provided by [University]. Hereafter referred to as The Program.
17. The claimant has an associate degree in accounting and has been working in the field. While seeking employment since his separation on December 1, 2023, the claimant has been repeatedly told he is either overqualified for positions, due to his AS degree and experience, or under qualified because positions required a bachelor's degree.
18. The Program began on May 6, 2024.
19. The claimant is expected to take 6 credits each term. A term is approximately 8 weeks in length.
20. When completing the TOP application, the school was unable to report on expected credits per semester beyond March 2, 2025.
21. The Program requires 120 credits. The school accepted 69 transfer credits for the claimant, so that he started the program with 69 of the required credits. He needed to successfully complete 51 more to fulfill the degree requirements.
22. The classes for The Program are all held online.
23. On November 14, 2024, the BS Accounting program provided by [University] was determined to be approvable per a management course review list on October 28, 2024.
24. On November 15, 2024, DUA issued a Notice of Disqualification stating that he was not entitled to TOP benefits while attending The Program because it was not established that he needed the training program to obtain suitable employment and because his application was received after the 20th

compensable week of his claim without a good cause reason for the late application.

25. The claimant has been attending The Program since May 6, 2024, through the date of the remand hearing, February 24, 2025.
26. The claimant attended class full-time, taking 6 credits of required classes a term, from May 6, 2024, through October 27, 2024.
27. The claimant attended class full-time, during the 1st Winter term 2024, October 28, 2024, to December 22, 2024, taking 6 credits.
28. The claimant attended class full-time, during the 2nd Winter term 2025, January 6, 2025, to March 2, 2025, taking 6 credits.
29. The claimant is expected to take a full-time course load, during the 1st Spring 2025 term, March 3, 2025, to April 27, 2025, taking 6 credits.
30. The claimant is expected to take a full-time course load during the 2nd Spring 2025 term, May 5, 2025, to June 29, 2025, taking 6 credits.
31. The claimant is expected to take a full-time course load, during the 1st Summer 2025 term, May 5, 2025, to June 29, 2025, taking 6 credits.
32. The claimant is expected to take a more than full-time course load, during the 2nd Summer 2025 term, July 7, 2025, to August 31, 2025, taking 9 credits.
33. Assuming the claimant follows the above-described course of study, he will complete his degree requirements for his bachelor's degree in accounting, from [University] on August 31, 2025.

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 consolidated 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 consolidated findings of fact except as follows. Given the undisputed documentary evidence in the record, Consolidated Findings ## 29 and 30 incorrectly label the March 3 to April 27, 2025, term as the 1st spring term and the May 5 to June 29, 2025, term as the 2nd spring term, rather than the 2nd spring term and 1st summer term, respectively.¹ In adopting the remaining findings, we deem them to be supported by substantial and credible evidence. As discussed more fully below, we disagree with the review examiner's legal conclusion that the claimant is ineligible for training benefits.

¹ See Remand Exh. 27, a letter from the University Registrar at [University]. We have supplemented the findings of fact, as necessary, with the unchallenged evidence before the review examiner. 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).

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 regulations that govern training benefits establish both procedures and standards for approving the training programs themselves, as well as the eligibility criteria for claimants seeking to participate in such programs. *See* 430 CMR 9.01–9.08.

In her original decision, the review examiner concluded that the claimant had established good cause to waive the 20-week application deadline pursuant to 430 CMR 9.05(7)(e), because a DUA staff person had discouraged him from timely resubmitting his application after his initial denial. She further concluded that the claimant required this training to obtain suitable employment, thus satisfying the regulatory requirement under 430 CMR 9.03(1). We agree.

The only remaining questions were whether the claimant had satisfied the requirements under 430 CMR 9.04(2), to show that he would be enrolled full-time and that he would complete the program within two years. *See* 430 CMR 9.04(2)(b) and (c). We remanded the case to afford the claimant an opportunity to present further evidence to show that his training program satisfied these requirements.

The claimant's September 13, 2024, application for training benefits (TOP application) seeks approval for a Bachelor's degree program in accounting at [University] (training program), which began on May 6, 2024, and which he will complete on August 31, 2025. *See* Consolidated Findings ## 16, 18, 25, and 33.² This is well within the two-year program completion requirement of 430 CMR 9.04(c).

Moreover, the record now shows that he will be enrolled full-time for the duration of his enrollment in this training program. *See* Consolidated Findings ## 19, and 26–32. Thus, the claimant has also met the full-time enrollment requirement under 430 CMR 9.04(b)(1).

We, therefore, conclude as a matter of law that the claimant is entitled to training benefits pursuant to G.L. c. 151A, § 30(c), while enrolled in this training program at [University].

The review examiner's decision is reversed. 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 training program from the week beginning May 5, 2024, through August 30, 2025, if otherwise eligible.

² Although this TOP application was not filed until September 13, 2024, we deem it to have been timely filed prior to the start of his training in May, 2024. *See* Consolidated Findings ## 16 and 18. This is because of the circumstances in this case, where a DUA agent discouraged him from simply resubmitting his original TOP application. *See* Consolidated Finding # 7. The original TOP application was filed on April 4, 2024. *See* Finding of Fact # 11 in the hearing decision rendered under DUA Issue ID # 0082 7072 43.

BOSTON, MASSACHUSETTS
DATE OF DECISION - March 7, 2025



Charlene A. Stawicki, Esq.
Member



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.

AB/rh