

**While limiting her availability for full-time work because she was attending a full-time esthetician training program, the claimant was ineligible for benefits pursuant to G.L. c. 151A, § 24(b). However, upon being approved for training benefits under G.L. c. 151A, § 30(c), she was eligible for benefits because she was exempt from the availability requirements of G.L. c. 151A, § 24(b).**

**Board of Review  
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**Issue ID: 334-FHHL-64R9**

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

The claimant resigned from her position with the employer on December 31, 2024. She filed a claim for unemployment benefits with the DUA, effective January 5, 2025, which was denied in a determination issued on February 27, 2025. 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 benefits in a decision rendered on April 2, 2025. We accepted the claimant's application for review.

Benefits were denied after the review examiner determined that the claimant did not meet the availability requirements of G.L. c. 151A, § 24(b), and, thus, was not entitled to benefits. 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 meet the availability requirement of G.L. c. 151A, § 24(b), beginning January 19, 2025, is supported by substantial and credible evidence and is free from error of law, where the DUA's electronic record-keeping system (EMT) shows that the claimant was approved for training benefits under G.L. c. 151A, § 30(c), between April 12, 2025, and August 9, 2025.

### Findings of Fact

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

1. The claimant attended one year of college.
2. The claimant worked as a full-time receptionist for a salon from October 10, 2021, to December 31, 2024. This was an in-person position. The claimant

- staffed the front desk, answered the phones, cleaned, took inventory and did payroll.
3. The claimant's commute to the above-described job was at least 50 minutes going in and at times the return commute was as long as 2 hours, depending on the day and when she was released from work.
  4. In July 2024, the claimant's brother-in-law died. A few weeks later, in August 2024, the claimant's father died.
  5. The claimant lives with her mother and with her 19-year-old daughter. The death of the claimant's brother-in-law and father caused great grief for the claimant and her mother. The claimant's daughter returned home from college to be with her family during this period of grief.
  6. The claimant continued to work after the above-described deaths but found it very difficult as she needed not only to deal with her own grief, and deal with the logistics of the loss but she also needed to support her elderly mother and her own teenage daughter through the loss.
  7. The claimant asked her employer about working part time or remotely, but the request was denied.
  8. In December 2024, the employer's work was slow, and the claimant was often sent home early. She resented the time spent commuting, instead of supporting her mother, when she was sent home after working only a few hours.
  9. The claimant decided that she needed to devote time to supporting her mother in her grief. As she did not know how long this would take, she chose to resign rather than request a leave of absence. Her employer, hoping that the claimant would return, chose to hire a temporary replacement for 6 months, to hold the claimant's position open for her should she choose to return. The claimant resigned effective December 31, 2024.
  10. On January 9, 2025, the claimant filed a claim for unemployment benefits, effective January 5, 2025.
  11. The claimant enrolled in a full-time esthetician certificate program, which she found on the Mass Hire database. The database indicated that the program had been approved for Section 30 training.
  12. The claimant began attending the above-described program in late January 2025. She attends classes in-person Tuesdays and Wednesdays from 9:00 a.m. to 5:00 p.m. and remotely 9:00 a.m. to 1:00 p.m. two other days during the week. The claimant is expected to complete this program in August 2025. The program costs \$17,000. The claimant has taken loans out to cover the cost.

13. The claimant has never worked full-time while also attending school full-time.
14. The claimant has not been approved for the Training Opportunities Program (TOP).
15. Since filing her unemployment application, the claimant has been seeking suitable employment, full-time or part-time work, which is either remote or close to her home, so that she can care for her family while working and going to school.
16. On February 27, 2025, DUA issued a Notice of Disqualification, stating that, under MGL c.151A, Section 24(b), the claimant was subject to disqualification for the period starting January 5, 2025, and for an indefinite period thereafter, until she meets the requirement of the law.

### 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 of fact are supported by substantial and credible evidence; and (2) whether the review examiner's conclusion is free from error of law. Upon such review, the Board adopts the review examiner's findings of fact, with the exception of Finding of Fact # 14, as it is inconsistent with current DUA records. In adopting the remaining findings, we deem them to be supported by substantial and credible evidence. As discussed more fully below, we reject the review examiner's legal conclusion that the claimant is indefinitely ineligible for benefits.

G.L. c. 151A, § 24(b), provides, in pertinent part, as follows:

[An individual, in order to be eligible for benefits under this chapter, shall] . . . (b)  
Be capable of, available, and actively seeking work in his usual occupation or any  
other occupation for which he is reasonably fitted. . . .

Although not specifically stated in G.L. c. 151A, § 24(b), other provisions of the Massachusetts Unemployment statute establish that unemployment benefits are intended to assist claimants in finding and returning to full-time work. *See, e.g.*, G.L. c. 151A, §§ 29 and 1(r), which provide for the payment of benefits only to those who are unable to secure a full-time weekly schedule of work. Thus, the above-quoted provision requires that claimants be capable of, available for, and actively seeking full-time work while claiming unemployment benefits.

In the instant case, the claimant's capability is not at issue, as there is no suggestion in the record that she has not met this requirement while claiming benefits. Further, the findings indicate that the claimant has been actively searching for work. *See* Finding of Fact # 15. Only her availability for full-time work is at issue, because of her full-time enrollment in a training program between late January, 2025 and August, 2025. *See* Findings of Fact ## 11 and 12.

The review examiner concluded that the claimant was eligible for benefits from the commencement of her claim, January 5, 2025, to January 18, 2025, but ineligible beginning January 19, 2025, when she commenced full time enrollment in the training program. While the review examiner's conclusion was correct based on the information available to her at the time her decision was issued, we disagree with her decision based on the information currently available in the EMT system.

Current information in the EMT system shows that, on May 7, 2025, the claimant was approved for training benefits pursuant to G.L. c. 151A, § 30(c), between April 12, 2025, and August 9, 2025. Pursuant to G.L. c. 151A, § 24(c), and 430 CMR 9.01 and 9.06(2), an individual who has been approved for training benefits under G.L. c. 151A, § 30(c), is deemed to be available for work under G.L. c. 151A, § 24(b), in any week in which the claimant is attending the approved training program or on an approved break. However, claimants are not relieved of the obligation to be available for work until they are: (1) approved for training and (2) have commenced the training. *See* 430 CMR 9.05(4).

In light of the approval of the claimant's G.L. c. 151A, § 30(c), benefits, on May 7, 2025, we conclude as a matter of law that the claimant is not disqualified from receiving benefits pursuant to G.L. c. 151A, § 24(b), during the period for which she has been approved under G.L. c. 151A, § 30(c), namely the period from April 13 to August 9, 2025.<sup>1</sup> We further conclude that the claimant remains ineligible for benefits during the period between January 19 and April 12, 2025, because she had not yet been approved for G.L. c. 151A, § 30(c), benefits, and she was limiting her availability for work due to her enrollment in the training program.

The review examiner's decision is affirmed in part and reversed in part. We affirm that part of the decision which denied benefits to the claimant between January 19 and April 12, 2025. We reverse that part of the decision which denied benefits to the claimant during the weeks beginning April 13 to August 9, 2025. The claimant is entitled to benefits from April 13 to August 9, 2025, and thereafter if otherwise eligible.

**BOSTON, MASSACHUSETTS**  
**DATE OF DECISION - May 30, 2025**



Paul T. Fitzgerald, Esq.  
Chairman



Charlene A. Stawicki, Esq.  
Member

Member Michael J. Albano did not participate in this decision.

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<sup>1</sup> The date of April 12, 2025, appears to have been a scrivener's error, as it is a Saturday. DUA benefit weeks begin on Sunday, which in this case is April 13, 2025.

**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.

PGS/rh