

The claimant was ineligible for training benefits because he did not establish that his chosen commercial driver's license training program was necessary to obtain suitable employment, where the review examiner found that, notwithstanding his diagnosed disabilities, he had obtained two jobs around the time his training program was scheduled to end, which were wholly unrelated to the skills taught in the training program. The claimant is ineligible for extended benefits under G.L. c. 151A, § 30(c).

**Board of Review
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Issue ID: 334-FHJ7-F74L

Introduction and Procedural History of this Appeal

The claimant appeals a decision by a review examiner of the Department of Unemployment Assistance (DUA) denying an extension of the claimant's unemployment benefits while he participated in a training program (training benefits). Training benefits were denied pursuant to G.L. c. 151A, § 30(c), on the ground that the claimant did not establish that his chosen program was necessary for him to obtain future employment.

The claimant had filed a claim for unemployment benefits, effective May 5, 2024, which was ultimately approved by the DUA. On October 25, 2024, the claimant submitted an application to the DUA for an extension of benefits to attend a training program, which the agency subsequently denied on December 28, 2024. The claimant appealed that 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 January 23, 2025. The claimant sought review by the Board, which denied the appeal, and the claimant appealed to the District Court pursuant to G.L. c. 151A, § 42.

On July 9, 2025, the District Court ordered the Board to obtain further evidence. Consistent with this order, we remanded the case to the review examiner to take additional evidence concerning whether the claimant required training to become re-employed in his current occupation because his present skills are insufficient or are out of date; whether the claimant's existing skills are obsolete due to technological change or lack of demand for his skills in his work search area; or whether a disability has made the claimant unable to perform the essential functions of jobs in his previous occupation. The claimant attended the remand hearing. Thereafter, the review examiner issued his consolidated findings of fact.

The issue before the Board is whether the review examiner's decision, which concluded that the claimant was ineligible for training benefits because his chosen program was not necessary for him to become re-employed, is supported by substantial and credible evidence and is free from error of law.

After reviewing the entire record, including the recorded testimony and evidence from the hearing, the review examiner's decision, the claimant's appeal, the District Court's Order, and the consolidated findings of fact, we affirm the review examiner's decision.

Findings of Fact

The review examiner's consolidated findings of fact and credibility assessment, which were issued following the District Court remand, are set forth below in their entirety:

1. Sometime around 2012 or 2013, while still in high school, the claimant started working as a receptionist for a mental health and substance abuse nonprofit company. He worked on a part-time basis while he was still in high school. After graduating high school, the claimant continued in this job on a full-time basis. The claimant worked at this company for approximately 2 to 3 years, and at the time he left he was earning \$9 per hour.
2. The claimant subsequently worked as a patient access representative in the emergency room of a hospital. The claimant remained in this full-time position for over a year and was paid between \$13 and \$14 per hour.
3. Around 2017, the claimant remained part-time at his hospital job while he went to work as a full-time team leader in charge of the front desk at a clinic, performing administrative work. The claimant worked this job for approximately 7 months and was paid between \$15 and \$16 per hour.
4. The claimant subsequently went to work as a full-time receptionist at a medical office. He remained in this position for approximately 16 months and earned around \$18 per hour.
5. Between 2018 and 2020, the claimant worked as a full-time receptionist at a nonprofit organization dealing with mental health and community resources. He earned between \$17 and \$18 per hour. The claimant continued in this position until March 2020, at the start of the COVID-19 pandemic.
6. In the summer of 2020, the claimant began to pursue a quality assurance schooling program at a trade school. The claimant enrolled as a full-time student and remained full-time for approximately a year. During this time, he did not work.
7. In 2021, the claimant interned at a local university as an administrative assistant. For this full-time, 6-month internship, the claimant received a stipend from the trade school.
8. Between 2021 and 2022, the claimant worked for a staffing agency on an on and off basis for approximately 6 months, performing administrative assistant work. He was paid in the \$20 per hour range. During this time, the claimant was not consistently working, and he received unemployment benefits.

9. In 2023, the claimant started working as a customer service representative, a full-time position for which he was paid \$22 per hour. The claimant remained in this position until late April or early May 2024, when he was discharged from his employment following a customer complaint.
10. The claimant filed a claim for unemployment benefits effective May 5, 2024.
11. Throughout his life, the claimant has desired to obtain his Commercial Driver's License (CDL) and work as a driver.
12. The claimant's highest level of education is a high school diploma.
13. The claimant has no prior driving work experience.
14. The claimant is diagnosed with anxiety, depression, and an unspecified learning disability. Due to his disabilities, the claimant finds it difficult to perform customer service or people-facing work nonstop on a full-time basis.
15. On May 29, 2024, the Department of Unemployment Assistance (DUA) issued the claimant the first payment in his claim.
16. The claimant, who had been working at his most recent job earning \$22 per hour, desired to become a CDL driver so he could earn a minimum rate of \$30 per hour.
17. On June 17, 2024, the claimant attended a DUA-required Reemployment Services and Eligibility Assessment (RESEA) meeting at a local career center. During the meeting, the claimant acknowledged that he was informed of the Section 30 Training Opportunities Program (TOP) and that he was required to submit a complete TOP application within the first 20 weeks of receiving unemployment benefits.
18. During that RESEA meeting, the claimant inquired about pursuing a TOP application for a CDL program. The claimant was told by a career center representative that a CDL program was not a DUA-approved training program.
19. After becoming unemployed, the claimant applied for retail, fast food, administrative, receptionist, and staffing positions. The claimant submitted over 40 applications. During his job search, the claimant did not limit his applications to jobs that started paying at a certain hourly rate. The claimant applied to multiple positions that paid minimum wage.
20. There is a demand for work in the previous occupations the claimant held.

21. Around August 2024, the claimant had an interview for a customer service position. His interview did not result in a job offer. This was the only interview that he was selected for from his over 40 job applications.
22. The claimant did not receive a single job offer during his job search.
23. Many of the types of jobs the claimant was applying for required either an associate or a bachelor's degree, which the claimant does not possess.
24. The claimant's skills in his previous occupations are obsolete because he only possesses a high school degree and because he finds it difficult to perform customer service or people-facing work nonstop on a full-time basis.
25. The claimant decided to switch careers and enroll in a CDL program at a local truck driving school in the hopes of securing stable employment with benefits.
26. The twentieth compensable week of the claim was the week beginning October 6, 2024.
27. On October 25, 2024 (postmark date), the claimant submitted a Training Opportunities Program (TOP) Section 30 benefits application to the DUA. The claimant had a representative from the school complete the relevant parts of the application. Per the application, the claimant was to start the program on November 18, 2024, and complete it on April 18, 2025.
28. The claimant started the program on November 18, 2024, on a full-time basis (25 hours per week).
29. The DUA approved the program for TOP purposes in the Massachusetts One Stop Employment Systems ("MOSES") database through June 30, 2025.
30. The claimant struggled with the CDL program due to his learning disability. As a result, the program was extended for the claimant until the first week of May 2025.
31. The claimant participated in the CDL program on a full-time basis between November 18, 2024, and the first week of May 2025.
32. In April 2025, the claimant worked for two weeks as a full-time loss prevention associate at a major retail store, earning \$16 per hour. The claimant left this job due to a family situation.
33. Around the end of April 2025, the claimant started working as a full-time warehouse associate for a major e-commerce company. The claimant earns \$20 per hour on this job.

34. Since May 2025, the claimant has been on a leave of absence from the CDL program.
35. On June 16, 2025, the claimant suffered a workplace injury. Since that day, the claimant has been on a leave of absence from his warehouse associate position.
36. As of August 11, 2025, the claimant has not completed the CDL program. The claimant has spoken to representatives from the truck driving school and hopes to complete the program in 2025.
37. As of August 11, 2025, the specific dates when the claimant will complete the program are unknown, as he is not scheduled yet. The claimant needs more classroom time and needs to pass his CDL road test with a state trooper.

Credibility Assessment:

During the hearing, the claimant provided detailed and consistent testimony regarding his prior work experience and the difficulties he encountered in securing work. Given that the claimant testified that he found over 40 positions to submit applications for, it is concluded that there is a demand for work in the previous occupations he held. Furthermore, given that the claimant explained how many of these positions require an associate or bachelor's degree, and where he was candid about his mental [health] issues and how they cause him to struggle in the customer service and people-facing jobs he has held in the past, it is concluded that the claimant's skills in his previous occupations are obsolete.

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 ultimate conclusion is free from error of law. After such review, the Board adopts the review examiner's consolidated findings of fact and credibility assessment except as follows.

In Consolidated Findings ## 36 and 37, the review examiner found the claimant has not completed his training program, but the claimant testified during the remand hearing that he had, in fact, completed the classroom portion of his training program during the first week of May of 2025. *See Consolidated Findings ## 30 and 31.* He further testified that he had not yet earned his commercial driver's license (CDL) as of the date of the remand hearing, as he needed to pass a road test with a state trooper and needed to participate in some degree of re-training through his training provider.¹ In adopting the remaining findings, we deem them to be supported by substantial and credible evidence.

¹ The claimant's testimony regarding his status in his training program is part of the unchallenged evidence introduced at the hearing and placed in the record, and it is 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).

With regard to the review examiner's credibility assessment, the first sentence is reasonable in relation to the evidence presented ("During the hearing, the claimant provided detailed and consistent testimony regarding his prior work experience and the difficulties he encountered in securing work."). However, we reject the rest of the credibility assessment, as it reaches conclusions of law that are not properly before the review examiner. At this point in the proceedings, the Board of Review applies the law to the facts. *See Dir. of Division of Employment Security v. Fingerman*, 378 Mass. 461, 463–464 (1979).

After remand, we agree with the review examiner's initial conclusion that the claimant's chosen program is not necessary to obtain suitable employment, and that the claimant is not in need of training to become re-employed, as outlined below.

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. Under G.L. c. 151A, § 30(c), it is the claimant's burden to prove that he fulfills all of the requirements to receive a training extension.²

The regulations that govern training benefits establish both procedures and standards for approving training programs, as well as the eligibility criteria for claimants seeking to participate in such programs. *See* 430 CMR 9.01–9.08. In order to qualify for training benefits, a claimant must be "unlikely to obtain suitable employment based on their most recently utilized job skills." 430 CMR 9.03(1). Further, 430 CMR 9.03(3)(b) states, in relevant part, that, in order to establish that he is "unlikely to obtain suitable employment," a claimant must show that he

requires training to become re-employed in his . . . current occupation, because his . . . present skills in that occupation are insufficient or are technologically out of date; provided, however, that a claimant possessing sufficient skills in his . . . current occupation to obtain suitable employment in that occupation shall not be determined to be in need of training, unless the claimant has separated from a declining occupation or is unemployed as a result of a permanent reduction of operations and the claimant is training for a demand occupation.

The District Court ordered a hearing to take additional evidence regarding the claimant's prior work history, the steps that he had taken to find work in his prior occupations, whether there was a demand for work in those occupations, whether his skills are obsolete, the extent to which he has been unable to find work, or whether a disability has made the claimant unable to perform the essential functions of prior jobs.

After remand, the review examiner's consolidated findings about the claimant's prior work experience show that he had various receptionist and administrative assistant positions over the

² In his initial decision (entered into evidence as Remand Exhibit # 4), the review examiner concluded that, although the claimant did not timely submit his application for training benefits by the end of his twentieth compensable week of benefits, the 20-week period was tolled because he credited the claimant's testimony that he was given misinformation by a career service representative. *See* Remand Exhibit # 4, p. 6. *See also* Consolidated Findings ## 18, 26, and 27. In view of the review examiner's finding and prior credibility assessment, we agree that the 20-week deadline was properly tolled in this case.

past ten years, with increasing hourly wages. He most recently worked for a staffing agency earning \$20 per hour and as a customer service representative earning \$22 per hour, prior to filing this claim for benefits. *See Consolidated Findings ## 1–9.*

The review examiner also found that the claimant’s highest level of education is a high school diploma, he submitted over 40 job applications in a variety of positions in retail, fast food, administrative, receptionist, and staffing positions between May of 2024, when he filed his claim for benefits, and when he began his training program on November 18, 2024. *See Consolidated Findings # 12 and 19–22.* During this time period, the claimant received only one job interview, which did not result in a job offer. The review examiner found that many of the office jobs that the claimant applied for required either an associate degree or a bachelor’s degree, which the claimant did not possess. *See Consolidated Finding # 23.*

The review examiner did not issue any findings regarding any work search efforts that the claimant may have made between the start of his program on November 18, 2024, and its anticipated completion date of April 18, 2025. *See Consolidated Findings ## 27–28.* However, the review examiner found that, around the time that the claimant was scheduled to finish his training program in April of 2025, he secured a position as a full-time loss prevention associate at a major retail store for \$16 per hour. *See Consolidated Finding # 32.* Shortly thereafter, at the end of April of 2025, the claimant secured employment as a warehouse associate for another company earning \$20 per hour. *See Consolidated Finding ## 33 and 35.* Particularly with regard to the warehouse associate position, the record shows that the claimant secured employment at a comparable hourly rate to two of his recent positions, and he did this with the job skills and experience that he had prior to his training program. Given this evidence, we decline to conclude that he was unable to secure suitable employment without the CDL training program.

After raising it for the first time in District Court, we were asked to consider the claimant’s eligibility for training benefits as a person with disabilities. Consolidated Finding # 14 states that the claimant has been diagnosed with anxiety, depression, and an unspecified learning disability. The DUA regulation at 430 CMR 9.08 states:

Nothing in 430 CMR 9.01 through 9.07 shall be deemed to exclude a qualified individual with a disability from training benefits under M.G.L. c. 151A, § 30(c).

For purposes of the Section 30 training benefits at issue, “Qualified Individual with a Disability” is defined under 430 CMR 9.02, as follows:

Qualified Individual with a Disability: under the ADA, “an individual with a disability who, with or without reasonable modifications to rules, policies, or practices, . . . or the provision of auxiliary aids and services, *meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by a public entity.*”

(Emphasis added.)

The Legislature has set forth the essential eligibility requirements for participation in the training benefits program in plain language under G.L. c. 151A, § 30(c):

(c) If in the opinion of the commissioner, *it is necessary for an unemployed individual to obtain further industrial or vocational training to realize appropriate employment*, the total benefits which such individual may receive shall be extended by up to 26 times the individual's benefit rate, if such individual is attending an industrial or vocational retraining course approved by the commissioner; provided, that such additional benefits shall be paid to the individual only when attending such course and only if such individual has exhausted all rights to . . . benefits under this chapter . . .

(Emphasis added.)

Although Consolidated Finding # 14 provides that the claimant was diagnosed with anxiety, depression, and a learning disability, it further states that, because of these disabilities, the claimant finds it difficult to perform full-time customer service or people-facing work. However, even if these disabilities made it difficult to become re-employed in his prior occupation, the claimant has been able to find other suitable employment, which he stopped performing for reasons that had nothing to do with his disabilities. He left his job as a loss prevention associate due to a family situation, and he is on a leave of absence from his warehouse associate position due to an injury. See Consolidated Findings ## 32, 33, and 35.

Thus, notwithstanding his disabilities, the claimant has been able to become re-employed in work wholly unrelated to the requested CDL training program. Given this record, he has not shown that he meets the essential statutory eligibility requirement for training benefits. Specifically, he has not demonstrated that the CDL driver training program is necessary to realize appropriate employment.

We, therefore, conclude as a matter of law that, because this program is not necessary for the claimant to realize appropriate employment, the claimant is ineligible for training benefits pursuant to G.L. c. 151A, § 30(c).

The review examiner's decision is affirmed. The claimant is not entitled to receive an extension of up to 26 times his weekly benefit rate or a waiver of the work search requirement while attending this training program.

BOSTON, MASSACHUSETTS
DATE OF DECISION - December 23, 2025



Charlene A. Stawicki, Esq.
Member



Michael J. Albano
Member

**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.

JPCA/rh