

Although the claimant was unable to work full time, she was available for part-time work. However, the claimant's work search log, documentation, and testimony establish that she satisfied the DUA's work search requirements for only four weeks that she certified for benefits. During those weeks, she is eligible for benefits pursuant to G.L. c. 151A, § 24(b), and 430 CMR 4.45(1)(b) and (4).

**Board of Review
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Issue ID: 335-FHHN-NK2R

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 had filed a claim for unemployment benefits, effective April 21, 2024, which was denied in a determination issued by the agency on September 19, 2024. Benefits were denied pursuant to G.L. c. 151A, § 24(b), because the claimant was unavailable to perform work. The claimant appealed to the DUA Hearings Department. Following a hearing on the merits, the review examiner affirmed the agency's initial determination in a decision rendered on January 4, 2025. The claimant sought review by the Board, which affirmed, and the claimant appealed to the District Court pursuant to G.L. c. 151A, § 42.

On April 23, 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 was available for part-time work. Thereafter, the review examiner issued her consolidated findings of fact.

The issue before the Board is whether the review examiner's decision, which concluded that the claimant was not able or available to work full time during the relevant period, rendering her ineligible for benefits, 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 to deny benefits except as to four weeks during the relevant period.

Findings of Fact

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

1. The effective date of the claim is April 21, 2024.
2. The claimant has a 15-year-old son who is autistic.
3. The claimant's son has multiple care needs and behavioral issues that require full time care and supervision.
4. The claimant's son had in-home services to assist with his care.
5. Prior to filing for unemployment, the claimant worked full-time remotely from home as a patient access secretary.
6. Due to her son's condition and care needs, the claimant could not work at a job outside of the home.
7. In August of 2023, the claimant reduced her hours to four days a week, eight hours per day due to the care needs of her son. The claimant needed to be available to take her son to appointments.
8. The claimant worked four days per week, eight hours per day as a patient access secretary from approximately August 2023 until her job with the employer ended.
9. On or about April 21, 2024, the claimant lost the in-home services for her son.
10. The claimant left her job as a patient access secretary on April 21, 2024, because she lost the in-home care and needed to be available to care for her son.
11. The claimant was not able or available for full-time work from April 21, 2024, through September 24, 2024, because she did not have any help with the care of her son.
12. The claimant could work part-time in the evenings or on the weekends remotely from home from April 21, 2024, through September 24, 2024, because she would not have to take her son to appointments or school. The claimant had more time in the evenings and on the weekends to perform work.
13. The claimant returned to her job as a patient access secretary on or about September 24, 2024, because she had in home services.
14. The in-home services for the claimant's son stopped on or about October 24, 2024.
15. The claimant left her job as a patient access secretary on October 24, 2024, because she lost the in home care and needed to be available to care for her son.

16. As of October 24, 2024, the claimant's son lived in the home without additional services.
17. From October 24, 2024, the claimant could work part-time remotely from home on the weekends and in the evenings because she would not have to take her son to appointments and other obligations.
18. The claimant has searched for work since she lost her job as a patient access secretary.
19. The claimant has not kept a search log documenting her work search.
20. The claimant did not keep a search log documenting her work search because it was chaotic when her son lived at home and she was not organized.
21. On or about June 16, 2025, the claimant started training and working as an independent contractor, approximately 15-20 hours per week as a medical scheduler. The claimant is paid per transaction and can make her own schedule.
22. The claimant is looking for another job because the medical scheduler job is not working out.
23. As of the end of July 2025, the claimant's son will be entering a therapeutic residential boarding school.
24. The claimant is searching for in-person, remote or hybrid full-time work since her son will be out of the home and at a therapeutic residential boarding school.

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 original conclusion is free from error of law. Upon such review, the Board adopts the review examiner's consolidated findings of fact and deems them to be supported by substantial and credible evidence. However, as discussed more fully below, we reject the review examiner's legal conclusion that the claimant should be denied benefits for all weeks under this 2024-01 claim.

In order to be eligible for unemployment benefits, a claimant must be capable of, available for, and actively seeking work for each week in which benefits are claimed.

The review examiner's decision disqualified the claimant because she was not capable of or available for full-time work. Ordinarily, to be eligible for benefits, a claimant must be available for full-time work.¹ However, there are a limited number of circumstances, set forth under 430

¹ Although not specifically stated in G.L. c. 151A, § 24(b), other provisions of the Massachusetts Unemployment Statute show that unemployment benefits are intended to assist claimants seek and return to full-time work. *See, e.g.,*

CMR 4.45, when claimants are permitted to restrict their availability to part-time work. In relevant part, these regulations state as follows:

(1) An individual otherwise eligible for benefits may limit his/her availability for work during the benefit year to part-time employment provided, that the individual: . . .

(b) establishes to the satisfaction of the commissioner that the reasons for leaving his or her employment were for such an urgent, compelling, and necessitous nature as to make his or her separation involuntary; and establishes to the satisfaction of the commissioner that the same or related urgent, compelling, and necessitous reasons require the individual to limit availability for work during the benefit year to part-time employment; and such limitation does not effectively remove the individual from the labor force

(4) Any individual who meets the requirements of either 430 CMR 4.45(1) or (3) must be actively seeking and available for suitable work to be eligible for benefits. . . .

In the present case, the claimant conceded that she was not available for full-time work from April 21, 2024, through September 24, 2024, because she had lost in-home support services for her son, and she needed to take care of him. *See Consolidated Findings ## 10–11.* She briefly returned to her full-time job on September 24, 2024, because in-home services support had returned to assist her in caretaking. *See Consolidated Finding # 3.* But she quit her job to resume unassisted caretaking when she lost in-home services again on or around October 24, 2024. *See Consolidated Finding # 5.* While this inability to work full-time would generally render her ineligible for benefits, the review examiner failed to consider whether the claimant nonetheless met the part-time eligibility criteria under 430 CMR 4.45.

A review of the DUA’s electronic recordkeeping system, shows that a different review examiner issued a decision in Issue ID # 0082 6508 08, concluding that the claimant separated from her previous employer involuntarily and for urgent, compelling, and necessitous reasons to take care of her autistic son and his challenges. Here, the record shows that the claimant limited her availability during the benefit year to part-time work for the same urgent, compelling, and necessitous reason that caused her separation. *See Consolidated Findings ## 9–10 and 17.*

While the claimant had limitations on her availability to work, the findings of fact indicate that these limitations were not so extensive as to effectively remove her from the labor force during the benefit year. *See Consolidated Findings ## 12 and 17.* Further, it was the claimant’s uncontested testimony that she would have been able to continue working her same position on a part-time basis had the employer adjusted her schedule to allow her to work on weekends, when she would not have to take her son to appointments or attempt to get him to school.² As the claimant remained

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.

² The claimant’s uncontested testimony in this regard 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,*

available for part-time work following her separation, she satisfied the requirements for limiting her availability to part time work under 430 CMR 4.45(1)(b).

The next issue is whether the claimant has shown that she was actively searching for work as required under G.L. c. 151A, § 24(b), and 430 CMR 4.45(4).

Pursuant to G.L. c. 151A, § 24(b), individuals seeking unemployment benefits are required to show that they have engaged in an active work search effort to find new employment. The Supreme Judicial Court defers to the DUA to set the standard for what constitutes an active work search. Grand v. Dir. of Division of Employment Security, 393 Mass. 477, 480–481 (1984). Whether an unemployed person is unable to obtain work is “largely a question of fact as to which the burden rests on the unemployed person to show that his continued unemployment is not due to his own lack of diligence.” Evancho v. Dir. of Division of Employment Security, 375 Mass. 280, 282–283 (1978).

The DUA expects a claimant to make an active and realistic search for work, taking steps that a reasonable person in the claimant’s circumstances would take if interested in obtaining work. Consideration is given to the customary methods of obtaining work in the claimant’s usual occupation, or in work for which the claimant is suited. *See* DUA Adjudication Handbook (revised Mar. 1, 2020), Chapter 4, § 4(A)(1). To meet the active work-search requirement, the DUA expects claimants to complete at least three work-search activities per week. *See* DUA Adjudication Handbook, Chapter 4, § 4(B). The DUA also asks claimants to maintain a log of their job search, including a list of all contacts made, the dates of such contacts, the names, addresses, and phone numbers of any individuals contacted, and the results of each contact. *See* DUA Adjudication Handbook, Chapter 4, § 4(B).

The claimant submitted a work search log for her first week that she certified for benefits, the week ending April 27, 2024. *See* Exhibit 8. This document shows that the claimant applied for three employment opportunities that week.³ This meets the DUA requirements to demonstrate an active work search. Beyond this, she failed to submit a log documenting her work search efforts. Although the claimant asserted during the hearing that she was actively seeking work since her separation from her full-time employment, she stated her life was too chaotic to accurately keep a worklog. *See* Consolidated Findings ## 18–20.

Although nothing in the claimant’s testimony provided detailed information about her work search efforts during each week, she did provide documents. These documents were entered into the hearing record in six separate parts. Remand Exhibits ## 11, 13, 14, and 15 contain evidence of the claimant’s work search activities during the period she was certifying for benefits. Remand Exhibit # 11 is 24 emails for the period between April 28, 2024, and May 9, 2025, confirming the claimant’s applications for employment through various job application platforms or emails where the claimant reached out to employers directly. Remand Exhibit # 13 shows that the claimant applied for 22 positions on Indeed. Only three of these applications display the month, day, and year when she applied, including one application on December 29, 2024, and two applications on

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).

³ Exhibit 8, as well as Remand Exhibits ## 11–16, discussed below, are also part of the unchallenged evidence in the record.

December 30, 2024. Remand Exhibit # 14 shows that the claimant applied for three positions at [Employer A] on April 15, 2023, December 16, 2024, and December 29, 2024. Remand Exhibit # 15 shows that the claimant applied for seven positions with [Employer B] between May 5, 2023, and March 9, 2025. The other applications in these exhibits were submitted outside of the period when the claimant was certifying for benefits or show that the claimant engaged in only one or two work-search activities during a benefit week

The claimant also submitted Remand Exhibit ## 12 and 16. Remand Exhibit # 12 is 14 screenshots of the claimant's email inbox. Most of the subject lines of the emails contain invitations to apply for positions, which is not evidence that she took any action in response, such as a follow up inquiry or applying for the job. Although there appear to be a few confirmation emails of submitted applications, the dates associated with the emails are cut off and illegible. Remand Exhibit # 16 shows a jobsite platform which recommends jobs for the claimant, but, again, it does not show whether the claimant took any action in response. As such, these documents do not corroborate the claimant's testimony that she engaged in three work-search activities during every week of her claim.

In short, the claimant has proven her eligibility for benefits for the weeks ending April 27, 2024, January 4, 2025, January 11, 2025, and March 15, 2025.

Specifically, Exhibit # 8 demonstrated three job applications during the week ending April 27, 2024. For the week ending January 4, 2025, Remand Exhibit # 13 shows that the claimant applied for two positions on December 29, 2024, and one position on December 30, 2024, and Remand Exhibit # 14 shows an additional application on December 29, 2024. For the week ending January 11, 2025, Remand Exhibit # 11 shows that the claimant applied for two positions on January 6, 2025, one position on January 8, 2025, and one position on January 9, 2025. Further, during the week ending March 15, 2025, Remand Exhibit # 11 shows that the claimant applied for two positions on March 9, 2025, and Remand Exhibit # 15 shows an additional application on March 9, 2025. From this documentary evidence, the claimant has met her burden to show that she engaged in an active and realistic search for work, by applying to at least three different employment positions for these four weeks.

We, therefore, conclude as a matter of law that the claimant has met her burden to show that pursuant to G.L. c. 151A, § 24(b), and 430 CMR 4.45(1)(b) and (4), she was available for and actively searching for part-time work during the benefit weeks of April 27, 2024, January 4, 2025, January 11, 2025, and March 15, 2025. We further conclude that she has not demonstrated that she was actively searching for work during any other benefit year weeks.

The review examiner's decision is affirmed in part and reversed in part. The claimant is entitled to receive benefits for the weeks of April 27, 2024, January 4, 2025, January 11, 2025, and March

15, 2025, if otherwise eligible. She is denied benefits during all other weeks in which she certified for benefits under this claim.

BOSTON, MASSACHUSETTS
DATE OF DECISION - September 18, 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.

MM/rh