

**During the claimant’s benefit year, he worked for the employer university while he was enrolled as a student and actively working towards the completion of a master’s degree program there. Board held the claimant was in total or partial unemployment and entitled to benefits while he worked as a part-time customer service representative. Even though the services were exempt pursuant to G.L. c. 151A, § 6(k), the payment for those services constituted remuneration for purposes of calculating his weekly benefit payments during his existing claim.**

**Board of Review  
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**Issue ID: 352-MLD8-NRPN**

Introduction and Procedural History of this Appeal

The employer appeals a decision by a review examiner of the Department of Unemployment Assistance (DUA) to award unemployment benefits. We review, pursuant to our authority under G.L. c. 151A, § 41, and affirm.

The claimant filed a claim for unemployment benefits with the DUA, effective September 29, 2024. During his benefit year, the claimant performed services for the employer beginning October 21, 2024, and until he separated from his position on December 21, 2024. Subsequently, the claim was approved in a determination issued on May 21, 2025. The employer appealed the determination to the DUA hearings department. Following a hearing on the merits, attended by both parties, the review examiner affirmed the agency’s initial determination and awarded benefits in a decision rendered on July 25, 2025. We accepted the employer’s application for review.

Benefits were awarded after the review examiner determined that the claimant was in total unemployment for one week, and in partial unemployment for the remaining weeks claimed, and, thus, was not disqualified under G.L. c. 151A, §§ 29 and 1(r). After considering the recorded testimony and evidence from the hearing, the review examiner’s decision, and the employer’s appeal, we remanded the case to the review examiner to provide notice and ask questions pertaining to whether the claimant’s services were considered to be exempt from employment pursuant to G.L. c. 151A, § 6(k). Both parties attended the two sessions of the remand hearing. Thereafter, 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 awarded benefits under G.L. 151A, §§ 29 and 1(r), is supported by substantial and credible evidence and is free from error of law, where the record after remand confirms that the claimant worked for the employer while he was a student enrolled in the university’s master’s degree program.

Findings of Fact

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

1. The claimant filed a new claim for unemployment benefits, effective September 29, 2024, with a benefit end date of September 27, 2025.
2. During the claimant's base period (October 1, 2023, through September 28, 2024), the claimant worked for another employer (employer A). The Department of Unemployment Assistance calculated the claimant's weekly benefit rate as \$230.00 and his earnings disregard as \$76.67.
3. The claimant was employed part-time as an IT technical analyst for employer A during the baseball season in 2024. On or around October 1, 2024, the claimant was laid off from his position due to the end of the season.
4. During the claimant's base period, the claimant was paid \$11,465.00 working for employer A.
5. Beginning on October 21, 2024, the claimant began working part time as an "[employer] hourly student job non-work study," conducting work as a service representative for the employer's technology services department.
6. The claimant's employment with the instant employer is new employment during his benefit year.
7. The employer is a private, non-profit university, which normally maintains regular faculty and curriculum.
8. The employer normally has an organized body of students in attendance.
9. The claimant's job duties included maintaining the walk-up facility at a campus location, creating tickets for laptop concerns from students, exchange and return repaired equipment, and assisting customers by troubleshooting basic technical questions.
10. The claimant earned \$16.00 per hour working for the instant employer.
11. The claimant's earnings were provided directly to him. The claimant's earnings were not paid to a student account held by the employer.
12. The claimant's position was not a work-study position and was not connected to the claimant's financial aid.
13. Work-study positions are facilitated through the financial aid office.
14. A regular employee is an employee who is not enrolled as a student at the university, hired through a separate channel, requiring distinct job postings

containing an official job title, which is posted on a career website. All regular employees must be hired through the university's human resources talent and acquisition team and are required to obtain a background check.

15. The school employs students while they are enrolled in the school. Students are unable to work for the school after they graduate from the university.
16. Students are able to work as student employees while they are listed in the school's system as an active student. A student's active student status is typically not changed by the employer until the date of graduation.
17. There is no record of the exact date the claimant's student status was changed from an active student to a graduated student.
18. Only students are able to work in the position the claimant worked; non-students are not allowed to work in the same position held by the claimant.
19. Students locate student-only positions by viewing online postings on applications containing only student available positions, and through bulletin board postings at the school. These positions do not contain official job titles/numbers, requirements affiliated with them, and do not require an official employer application or background check.
20. Prior to beginning his employment, the claimant was informed that the expectation would be that the claimant would be available for a minimum of seven (7) hours per week.
21. On or around September 11, 2024, the claimant exchanged an email with a student creating the schedule, who informed the claimant he would be responsible for committing to four (4) hours during the weekend shifts.
22. The claimant worked an average of four (4) hours each week for the instant employer.
23. The claimant did not work any hours for the instant employer the week ending November 30, 2024, because the school had limited hours available that week due to the Thanksgiving holiday.
24. The claimant did not specifically ask the supervisor for any additional hours because the position's hours were managed by an online application. Student employees could log in to the application and view any available hours.
25. The claimant's last day of work with the employer was December 21, 2024.
26. The claimant completed all of his required work to obtain his degree on December 21, 2024.

27. The claimant informed the supervisor that he had completed his course requirements to graduate on December 21, 2024, and stopped working for the university.
28. The employer allows students to continue to work for the university in student positions until they graduate, and their active student status is changed to graduated student.
29. The claimant graduated from the university on February 8, 2025.
30. During the fall 2024 semester, the claimant was enrolled in the Master of Science Computer Engineering program while working the customer service job, which is a credit program towards a degree.
31. The claimant's program did not combine academic instruction with work experience.
32. The claimant was not required to work in a customer service position in order to obtain his degree.
33. The university considers students taking one (1) to four (4) credits to be a part-time student and anyone taking nine (9) credits to be a full-time student.
34. The claimant was enrolled in seven (7) credits while he was working as [sic] the customer service job.
35. The claimant was a part-time student while working the customer service job.
36. While working for the instant employer, the claimant was taking two (2) classes and a directed study.
37. One (1) of the claimant's classes was held during day hours. This class did not require attendance, but required the claimant to take a mid-term exam and a final exam.
38. The second course was held during evening hours, ending at 6:00 p.m. This class also did not require attendance, but required the claimant to take quizzes and a final exam. The start time of this class is unknown.
39. The claimant attended approximately sixty (60) percent of his scheduled classes.
40. The claimant's directed study allowed the claimant to work with a mentor and receive one-on-one time learning, estimated at approximately ten (10) hours per week.

41. The claimant also volunteered as a research assistant with the claimant's directed study professor.
42. The claimant would run experiments, gather data and write reports during this time.
43. Beginning in or around October and November 2024, the claimant's time he spent volunteering as a research assistant lessened, because the experiments were completed and the claimant was focusing on writing reports, which took less time.
44. The claimant volunteered as a research assistant for approximately ten (10) hours per week.
45. The claimant was able to complete his work as a research assistant during the day, evenings, and on the weekends.
46. The claimant continued to volunteer as a research assistant until approximately June and July 2025.
47. The claimant would be able to complete his laboratory work after normal working hours from 9:00 a.m. to 5:00 p.m., if he was working a full-time job.
48. The claimant worked all hours he was offered by the instant employer.
49. The claimant did not refuse any hours offered to him by the employer.
50. Beginning October 21, 2024, and the subsequent weeks, the claimant was medically capable of working full-time hours.
51. The claimant was available to work full time hours the week beginning October 21, 2024, and subsequent weeks. The claimant's availability was not limited, because his class schedule did not require him to attend his classes, his work as a research assistant only required approximately ten (10) hours of work each week, and he could do his research assistant duties at any time.

Credibility Assessment:

During the hearing, the claimant maintained that after he completed his course work required to earn his degree on December 21, 2024, the claimant was no longer a student and unable to work at the university. The employer's witness provided testimony that student status is typically not changed in the employer's system to graduated student until their official graduation date. Given the employer's testimony, her experience working with student employees and regular employees in the operation of the school, the employer's knowledge of the fact the claimant would have been able to work as a student employee after completing his graduation requirements until his date of graduation is deemed to be credible.

The employer's witness provided testimony that the claimant was neither a part-time student nor a full-time student because he was taking seven (7) credits, while the university considers taking one (1) to four (4) credits to be part-time and taking nine (9) credits to be full-time. Based on the employer's witness's testimony, it is reasonable that a student would not become a full-time student until they reach the nine (9) credits in a semester required to be considered a full-time student. Therefore, it is concluded the claimant was a part-time student when working the customer service job.

Throughout the remainder of the hearing, the claimant's and the employer's testimony was credible.

### 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. 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. We further believe that the review examiner's credibility assessment is reasonable in relation to the evidence presented. As discussed more fully below, we also agree with the review examiner's legal conclusion that the claimant is eligible for benefits.

The claimant worked for the employer from October 21, 2024, until December 21, 2024. *See Consolidated Findings ## 5 and 25.* In her hearing decision, the review examiner regarded the claimant's customer service position with the employer as new, part-time benefit year employment. Consequently, she determined that the claimant was not disqualified by G.L. c. 151A, §§ 29 and 1(r), and was eligible for benefits. We remanded to consider whether the services performed for the employer during this timeframe were exempt from the unemployment statute's definition of employment.

Specifically, we consider whether the claimant's services were exempt pursuant to G.L. c. 151A, § 6(k), which provides, in relevant part, the following:

The term "employment" shall not include: . . .

**(k) Service performed in the employ of a school, college, or university, if such service is performed by a student who is enrolled and is regularly attending classes at such school, college, or university, or by the spouse of such a student, if such spouse is advised, at the time such spouse commences to perform such service, that the employment of such spouse to perform such service is provided under a program to provide financial assistance to such student by such school, college, or university, and such employment will not be covered by any program of unemployment insurance; or service performed by an individual who is enrolled at a nonprofit or public educational institution which normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in**

attendance at the place where its educational activities are carried on as a student in a full-time program, taken for credit at such institution, which combines academic instruction with work experience, if such service is an integral part of such program, and such institution has so certified to the employer, except that this subsection shall not apply to service performed in a program established for or on behalf of an employer or group of employers.

(Emphasis added).

There is no question that the employer is a university or that the services at issue were performed for the employer. *See* Consolidated Findings ## 5 and 7. Neither the claimant nor the employer disputed that, during the period that he worked for the employer, the claimant was enrolled there as a student. *See* Consolidated Findings ## 30 and 35; *see also* Remand Exhibit 10.<sup>1</sup> At that time, the claimant was enrolled in a master's degree credit program at the university. *See* Consolidated Finding # 30.

The record, including the claimant's testimony and academic transcript, establishes that he attended classes there on at least a part-time basis, both before and during the time he worked as a customer service representative for the employer. *See* Consolidated Findings ## 21–22, and 34–39. Even though the claimant was not required to attend classes, he was nonetheless required to take a mid-term exam and quizzes, as well as two final exams to complete these courses. Consolidated Findings ## 37–38. Moreover, the claimant attended approximately 60% of his scheduled classes. *See* Consolidated Finding # 39. While working in this position for the employer, the claimant had not yet completed the course work necessary for his master's degree. Consolidated Findings ## 26 and 27 show that he only met those requirements on December 21, 2024, which coincided with his last day of work. The university also confirmed that only students can work in the position the claimant worked, and that non-students are not allowed to work in the same position held by the claimant. *See* Consolidated Finding # 18.

In light of these findings, G.L. c. 151A, § 6(k), renders the services which the claimant performed for the employer to be exempt from the statute's definition of employment. This is significant for purposes of calculating the claimant's monetary eligibility should he file a new claim after the end of this 2024-01 claim. Because these services are exempt, the wages earned from that work would not be counted in reaching the minimum monetary eligibility requirements under G.L. c. 151A, § 24(a). The issue before us in the present appeal, however, is whether these services render the claimant ineligible for benefits under his 2024-01 claim pursuant to G.L. c. 151A, §§ 29 and 1(r). They do not.

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<sup>1</sup> Although neither party disputed the fact that the claimant was enrolled as a student between October and December 2024, the employer had submitted the claimant's entire academic transcript, which included a list of courses the claimant took during the fall 2024 semester. The fall semester included the months of October, November, and December, 2024. The review examiner entered the academic transcript into the record as Remand Exhibit 10. 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).

G.L. c. 151A, § 29, authorizes benefits be paid only to those in “total unemployment” or “partial unemployment.” These terms are, in turn, defined by G.L. c. 151A, § 1(r), which provides, in relevant part, as follows:

(1) “Partial unemployment”, an individual shall be deemed to be in partial unemployment if in any week of less than full-time weekly schedule of work he has earned or has received aggregate remuneration in an amount which is less than the weekly benefit rate to which he would be entitled if totally unemployed during said week; provided, however, that certain earnings as specified in paragraph (b) of section twenty-nine shall be disregarded. . . .

(2) “Total unemployment”, an individual shall be deemed to be in total unemployment in any week in which he performs no wage-earning services whatever, and for which he receives no remuneration, and in which, though capable and available for work, he is unable to obtain any suitable work.

“Remuneration” is defined at G.L. c. 151A, § 1(r)(3), which states as follows:

For the purpose of this subsection, "Remuneration", any consideration, whether paid directly or indirectly, including salaries, commissions and bonuses, and reasonable cash value of board, rent, housing, lodging, payment in kind and all payments in any medium other than cash, received by an individual (1) from his employing unit for services rendered to such employing unit, (2) as net earnings from self-employment, and (3) as termination, severance or dismissal pay, or as payment in lieu of dismissal notice, whether or not notice is required, or as payment for vacation allowance during a period of regular employment; provided, however, that for the purposes of this chapter, “remuneration” shall not include any payments made pursuant to subsections (b) and (c) of section one hundred and eighty-three, and subsection (b) of section one hundred and eighty-four of chapter one hundred and forty-nine, nor shall it include payment for unused vacation or sick leave, or the payment of such termination, severance or dismissal pay, or payment in lieu of dismissal notice, made to the employee in a lump sum in connection with a plant closing, nor shall this clause affect the application of subsection (d) of section twenty-nine. . . .

Here, the consideration which the employer paid to the claimant for the work performed in its technology services department was “(1) from his employing unit for services rendered to such employing unit.” Inasmuch as that consideration does not fall within any of the enumerated exceptions listed in G.L. c. 151A, § 1(r)(3), it is treated as remuneration.

We note that the DUA’s record-keeping database shows that the claimant reported earnings in each week that he certified for benefits during the period he worked for the employer from October 21 to December 21, 2024. The review examiner correctly concluded that, during those weeks, the claimant was in total unemployment in any of those weeks when he earned less than his \$230.00 weekly benefit rate plus his \$76.67 earnings disregard (total \$306.67), and in partial unemployment during any week when his earnings exceeded that sum.

We, therefore, conclude as a matter of law that, pursuant to G.L. c. 151A, § 6(k), the claimant's services for the employer did not constitute employment. We further conclude that the wages paid to the claimant for those services nonetheless constituted remuneration pursuant to G.L. c. 151A, § 1(r)(3). For this reason, we conclude that the claimant was in total or partial unemployment within the meaning of G.L. c. 151A, § 29 and 1(r), during the relevant period.

The review examiner's decision is affirmed. The claimant is entitled to benefits for the week beginning October 20, 2024, through December 21, 2024, if otherwise eligible.



Charlene A. Stawicki, Esq.  
Member

**BOSTON, MASSACHUSETTS**  
**DATE OF DECISION - December 15, 2025**



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](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.

JMO/th