The claimant, a citizen of Kenya, resided in United States on F-1 student visa while in a doctoral program. USCIS regulations grant her school's DSO discretionary authority whether to approve any employment in curricular practical training (CPT). In light of this discretion, her availability to work is limited and uncertain. For this reason, the Board held that she is not eligible to receive benefits pursuant to G.L. c. 151A, § 24(b).

Board of Review
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Issue ID: 352-MP73-R26F

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 affirm.

The claimant filed a claim for unemployment benefits with the DUA, effective June 29, 2025, which was denied in a determination issued on August 6, 2025. 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 benefits in a decision rendered on December 26, 2025. We accepted the claimant's application for review.

Benefits were denied after the review examiner determined that the claimant did not establish that she was legally permitted to work full-time in the United States. Thus, she concluded that the claimant was not entitled to benefits under G.L. c. 151A, § 24(b). 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, as well as DUA's electronic record keeping system and the claimant's appeal.

The issue before the Board is whether the review examiner's decision, which concluded that the claimant's F-1 Curricular Practice Training (CPT) work authorization limited the claimant to part-time work while school was in session, and, therefore, the claimant has not proven that she was legally authorized to work full-time during her benefit year pursuant to G.L. c. 151A, § 24(b), is supported by substantial and credible evidence and is free from error of law.

Findings of Fact

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

1. The claimant is not a citizen of the United States.

2. The claimant was issued a F-1, I-94 admission record, [sic] December 31, 2016.

3. The claimant's most recent [I-20] Certificate of Eligibility for Nonimmigrant Student Status states that she had Curricular Practice Training (CPT) employment authorizing her to work full-time for [Employer A] from August 28, 2023, to March 30, 2024, and from March 31, 2024, to March 29, 2025.

4. The claimant is enrolled in a doctorate program at [Institution], majoring in Computer/Computer Systems, Technology/Technician. This program started August 27, 2023, and is expected to be completed August 11, 2028. She is taking 6 credits a semester, which is considered to be full-time for a doctorate student at this school.

5. From July 5, 2023, to June 30, 2024, the claimant worked part-time for [Employer A], as a personal financial advisor.

6. From August 6, 2024, to January 31, 2025, the claimant worked part-time for [Employer B], as a personal financial advisor.

7. The claimant filed an unemployment claim effective March 9, 2025, to March 7, 2026.

8. The claimant took 6 credits of course work, between April 3, 2025, and August 15, 2025.

9. On August 6, 2025, the Department of Unemployment Assistance issued a determination stating that, under MGL c. 151A, section 24(b), the claimant was not eligible to receive benefits for the week ending July 5, 2025 and any weeks after that, because though she was authorized to work in the United States, the terms of her Visa were so restrictive that she is not considered to be available for work.

10. The claimant is currently enrolled for 6 credits of course work, for period of August 29, 2025, to December 12, 2025.

11. The claimant intends to take 6 credits of course work, from January 5, 2026, to April 10, 2026.

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 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 findings of fact except as follows. We clarify Finding of Fact # 3 to note that the Form I-94 admission record states that the claimant, a citizen of Kenya, entered the United States on an F-1 student visa on December 31, 2016, and is authorized

to remain in the United States through the duration of her studies.[1] We reject the portions of Findings of Fact ## 5 and 6 insofar as they state that the claimant worked part-time for [Employer A] and [Employer B]., as this is unsupported by the record. We also reject the portion of Finding of Fact # 7 that states that the effective date of her claim was March 9, 2025, to March 7, 2026, as DUA's electronic record keeping system shows the claimant's 2025 benefit year claim was effective June 29, 2025, through June 27, 2026. In adopting the remaining findings, we deem them to be supported by substantial and credible evidence. However, as discussed more fully below, while we agree with the review examiner's decision to deny benefits, we do so on different grounds.

The review examiner determined that the claimant's F-1 student visa restricted her to working part-time hours while school was in session. As such, the claimant did not show that she was legally available for full-time work during her benefit year. In reaching this conclusion, the review examiner applied the state law provision under G.L. c. 151A, § 24(b), which 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 show that unemployment benefits are intended to assist claimants in seeking 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, a claimant must be available for full-time work while requesting unemployment benefits.

As a state agency administering the unemployment insurance program, we must also abide by U.S. Department of Labor (DOL) regulations governing eligibility for unemployment insurance. These regulations require that a non-citizen must be legally authorized to work by the appropriate U.S. agency in order to be considered "available for work." Specifically, 20 C.F.R. § 604.5 — Application — availability for work, provides, in relevant part, as follows:

> (f) Alien status. To be considered available for work in the United States for a week, the alien must be legally authorized to work that week in the United States by the appropriate agency of the United States government. In determining whether an alien is legally authorized to work in the United States, the State must follow the requirements of section 1137(d) of the SSA (42 U.S.C. 1320b-7(d)), which relate to verification of and determination of an alien's status.

[1] The claimant's most recent Form I-94, printed on July 2, 2025, is Exhibit # 5. While not explicitly incorporated into the review examiner's findings, this exhibit 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).

Thus, a claimant who certifies that she is not a citizen of the United States must verify her identity and show that she has been legally authorized to work full-time during the benefit year of her claim by the appropriate U.S. agency. This is currently the U.S. Citizenship and Immigration Services (USCIS) under the Department of Homeland Security (DHS).

The relevant period before us is the claimant's benefit year, June 29, 2025, through June 27, 2026. *See* Finding of Fact # 7.

The claimant's Form I-94 arrival record shows that the claimant is admitted to the United States under an F-1 student immigration classification. *See* Finding of Fact # 2. By virtue of her F-1 status, the claimant is permitted to work for employers with certain limitations as set forth in detail under 8 C.F.R. § 214.2(f).

The findings show the claimant, a doctoral candidate, enrolled in a state university in August of 2023 and was authorized to participate in curricular practice training (CPT). *See* Findings of Fact ## 3 and 4. Individual F-1-students, who are lawfully enrolled in a university and wish to engage in CPT, must obtain authorization to work pursuant to 8 C.F.R. § 214.2(f)(10). Specifically, 8 C.F.R. § 214.2(f)(10)(i), lists the procedural requirements that must be met. The relevant portions are as follows:

> (10) Practical training**.** Practical training may be authorized to an F-1 student who has been lawfully enrolled on a full-time basis, in an approved SEVP-certified college, university, conservatory, or seminary for one full academic year…An eligible student may request employment authorization for practical training in a position that is directly related to their major area of study…
>
> > (i) Curricular practical training**.** An F-1 student may be authorized by the DSO to participate in a curricular practical training program that is an integral part of an established curriculum. Curricular practical training is defined to be alternative work/study, internship, cooperative education or any other type of required internship or practicum that is offered by sponsoring employers through cooperative agreements with the school. Students who have received one year or more of full time curricular practical training are ineligible for post-completion academic training. Exceptions to the one academic year requirement are provided for students enrolled in graduate studies that require immediate participation in curricular practical training. *A request for authorization for curricular practical training must be made to the DSO*. A student may begin curricular practical training only after receiving their Form I-20 or successor form with the DSO endorsement. To grant authorization for a student to engage in curricular practical training, a DSO will update the student's record in SEVIS as being authorized for curricular practical training that is directly related to the student's major area of study. The DSO will indicate whether the training is *full-time or part-time*, the employer and location, and the employment start and end date. The DSO must sign, date, and return the Form I-20 or successor form to the student prior to the student's

> commencement of employment indicating that curricular practical training has been approved.

(Emphasis added.)

Here, the claimant's USCIS Form I-20 Certificate of Eligibility for Nonimmigrant Student status (Form I-20) granted her full-time curricular practical training (CPT) employment authorization from August 29, 2023, through March 29, 2025, listing a specific employer. *See* Finding of Fact # 3. However, this authorization to work expired before June 29, 2025, the beginning of her claim benefit year.

In her Board of Review appeal, the claimant asserts that the issuance of one Form I-20 grants her unrestricted full-time work authorization in CPT while enrolled in the school's doctoral program. *See* Findings of Fact ## 3, 4, 8, 10, and 11. We disagree.

The purpose of an F-1 visa is primarily for academic study. Form I-20 is not a blanket work authorization form simply because it verifies a student's F-1 status. Any authorization to work is limited. Pursuant to 8 C.F.R. § 214.2(f)(10)(i), to participate in CPT, F-1 students must obtain work authorization approval from the DSO. As such, the DSO has authority to grant or deny employment in CPT. Because the regulation expressly grants discretion to the DSO to approve or deny any offers of employment, the claimant's availability is uncertain. In light of this discretion and uncertainty, the claimant is not available for work within the meaning of G.L. c. 151A § 24(b).

We, therefore, conclude as a matter of law that the claimant has not met her burden to show that the USCIS has authorized her to work full-time in the United States as required pursuant to G.L. c. 151A § 24(b).

The review examiner's decision is affirmed. The claimant is denied benefits for the week ending July 5, 2025, and thereafter.

Charlene A. Stawicki

BOSTON, MASSACHUSETTS
DATE OF DECISION - February 4, 2026

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.

DY/rh