

The claimant established that he meets the criteria to limit his availability to part-time work due to his anxiety and panic attacks under 430 CMR 4.45(3). However, he did not establish that he has been actively seeking suitable work. Therefore, he is not eligible for benefits.

**Board of Review
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Issue ID: 352-MPM7-LHV8

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 filed a claim for unemployment benefits with the DUA, effective June 15, 2025. On August 20, 2025, the DUA issued a determination denying benefits indefinitely beginning June 15, 2025. The claimant appealed the determination to the DUA hearings department. Following a hearing on the merits attended by the claimant, the review examiner modified the agency's initial determination, denying benefits for the period of June 15, 2025, through August 2, 2025, but awarding benefits for the period beginning August 3, 2025, in a decision rendered on September 29, 2025. We accepted the claimant's application for review.

Benefits were denied after the review examiner determined that the claimant was not capable of working during the period of June 15, 2025, through August 2, 2025, and, thus, was disqualified 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, and the claimant's appeal.

The issue before the Board is whether the review examiner's decision, which concluded that the claimant was not capable of working from June 15, 2025, through August 2, 2025, due to his anxiety and panic attacks, but has been able and available to work full-time and actively seeking full-time work since August 3, 2025, 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 filed a claim with an effective date of June 15, 2025. His weekly benefit amount is \$362.00.
2. Since 2020, the claimant has suffered from anxiety and panic attacks.

3. Prior to filing for benefits, the claimant worked full-time as a front-end coordinator in a retail store.
4. In the fall of 2024, the claimant began attending classes part-time and remotely at a community college. He took 3 classes, amounting to 9 credits.
5. In the spring of 2025, the claimant took 3 classes remotely, amounting to 9 credits, at the community college.
6. While the claimant was attending school, he also had a part-time job working remotely for the school. He worked remotely for a few hours a week.
7. The claimant quit his full-time position due to panic attacks.
8. After leaving his position, the claimant's anxiety and panic attacks increased. He was not able to leave his house.
9. After leaving his position, the claimant began seeking treatment and working on his anxiety and panic attacks.
10. By the month of August of 2025, the claimant's anxiety had stabilized. It no longer prevented him from working full-time in a remote position.
11. The claimant is currently attending school full-time. He takes 4 classes, amounting to 12 credits, both in person and remotely.
12. The claimant is currently looking for a full-time, remote position through his school's career center.
13. If the claimant were offered a full-time position, he would reduce his schedule at the next opportunity to accept the full-time position.
14. Beginning in August of 2025, the claimant has no other physical or medical issues preventing him from being capable of full-time work.
15. Beginning in August of 2025, the claimant has no other limitations on his time preventing him from being available to work full-time.
16. On August 22, 2025, the Department of Unemployment Assistance issued a Notice of Disqualification denying the claimant benefits under Section 24(b) of the Law for the week ending June 21, 2025, and onward. The claimant appealed the Notice of Disqualification.

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 reject Finding of Fact # 10 insofar as it states that, by August, 2025, the claimant’s anxiety no longer prevented him from working *full-time*. We also reject Finding of Fact # 12 insofar as it states that the claimant is looking for a *full-time* position. As further discussed below, these findings are not supported by the record. In adopting the remaining findings, we deem them to be supported by substantial and credible evidence. We accept the review examiner’s legal conclusion that the claimant is ineligible for benefits for the period of June 15, 2025, through August 2, 2025. However, we reject the review examiner’s legal conclusion that the claimant is eligible for benefits beginning August 3, 2025, as outlined below.

At issue in this appeal is the claimant’s eligibility 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

Under G.L. c. 151A, § 24(b), the burden of proof is on the claimant. *See* Evancho v. Dir. of Division of Employment Security, 375 Mass. 280, 282–283 (1978) (“the burden rests on the unemployed person to show that his continued unemployment is not due to his own lack of diligence”) (citation omitted).

To be eligible for benefits under G.L. c. 151A, § 24(b), claimants are expected to be physically capable of, available for, and actively seeking full-time work.¹

The review examiner found that, by August, 2025, the claimant’s anxiety no longer prevented the claimant from working full-time. *See* Finding of Fact # 10. However, the record does not support this finding.

During the hearing, the review examiner asked the claimant at what point he thought his anxiety had decreased so that he could work full-time remotely. The claimant replied that his anxiety had “stabilized a little bit but not 100%” in August.² He further stated that he had had a lot of anxiety in August, and that he didn’t think his anxiety had completely stabilized, although it was getting better and was more under control than it had been six months earlier.

At another point in the hearing, the claimant testified that his anxiety was not under control and he never said that it was under control. When the review examiner asked the claimant if he thought he would be able to work full-time remotely, he replied he “would hope so.”

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.*, 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 While not explicitly incorporated into the review examiner’s findings, this portion of the claimant’s testimony, as well as the testimony referenced below, 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).

Given this record, the claimant did not establish that he has been able to work full-time at any point since June 15, 2025.

However, DUA regulations set forth at 430 CMR 4.45 allow claimants to limit their availability to part-time work under certain circumstances. In relevant part, these regulations state as follows:

- (3) . . . [A]n otherwise eligible individual . . . may limit his/her availability for work during the benefit year to part-time employment provided, that the individual is:
 - (a) a qualified individual with a disability;
 - (b) provides documentation to the satisfaction of the commissioner substantiating an inability to work full-time because of such disability; and
 - (c) establishes to the satisfaction of the commissioner that such limitation does not effectively remove himself/herself from the labor force.

430 CMR 4.44 sets out definitions pertinent to 430 CMR 4.45:

Disability means a physical or mental impairment that substantially limits a major life activity of such individual; . . .

Major Life Activities means functions including but not limited to caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, the operations of major bodily functions, and *working*.

(Emphasis added.)

The claimant quit his last full-time position due to his panic attacks. *See* Findings of Fact ## 3 and 7. For purposes of our analysis, we consider the claimant’s anxiety and panic attacks to be a disability that limits his major life activity of working. He submitted a letter from his doctor, dated August 22, 2025, which was admitted into evidence as Exhibit 17.³ The letter states, in part, that the claimant “has a significant medical history that currently prevents him from engaging in any long term employment.” It further states, “Based on my clinical assessment and review of [the claimant’s] medical condition(s), it is my professional opinion that at this time he is unable to work.” This letter constitutes documentation substantiating the claimant’s inability to work full-time because of his disability.

We note that the letter from the claimant’s doctor states that the claimant is unable to work. However, the claimant has been working in a part-time remote position for his school. *See* Finding of Fact # 6. On his weekly certifications for benefits, the claimant reported that he had worked and earned wages during the weeks ending July 5, 2025, July 12, 2025, and August 2, 2025. *See* Exhibits 8, 9 and 12.⁴ The fact that the claimant obtained and performed this work establishes that

³ Exhibit 17 is also part of the unchallenged evidence introduced at the hearing and placed into the record.

⁴ Exhibits 8, 9 and 12, the claimant’s certifications for benefits for the weeks listed, are also part of the unchallenged evidence introduced at the hearing and placed into the record.

the limitations on the claimant's availability do not effectively remove him from the labor force, at least as of the week ending July 5, 2025.

Based on the above, the claimant meets the criteria to limit his availability to part-time employment pursuant to 430 CMR 4.45(3), at least as of the week ending July 5, 2025.

However, our inquiry does not end there. Even if the claimant meets the requirements of 430 CMR 4.45(3) to limit his availability to part-time work, he must actively seek suitable work to be eligible for benefits. *See* 430 CMR 4.45(4).

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. *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 and keep a detailed, written work search log. *See* DUA Adjudication Handbook, Chapter 4, § 4(B).

The review examiner found that the claimant is currently looking for a full-time remote position through his school's career center. *See* Finding of Fact # 12. However, the record shows that the claimant testified that he is "sort of looking for work" and working with his school's career center to "keep an eye out" for jobs that could be remote. He never specified that he is looking for full-time work, or that he is completing at least three work search activities a week.

Indeed, nothing in the record shows that the claimant completed three or more work search activities during any of the weeks at issue. His certifications for benefits for the week ending June 21, 2025, through the week ending September 13, 2025, do not include work search logs or any indication that the claimant completed three work search activities during the week for which he was requesting benefits. *See* Exhibits 6-16, 19, and 20.⁵

Given this record, the claimant has not established with substantial and credible evidence that he was actively seeking suitable work during the week ending June 21, 2025, or any subsequent week.

We, therefore, conclude as a matter of law that the claimant has failed to meet his burden to show that he has met the requirements of G.L. c. 151A, § 24(b), and 430 CMR 4.45(4) to be actively seeking suitable work during the week ending June 21, 2025, or any subsequent week.

The review examiner's decision is affirmed in part and reversed in part. The claimant is denied benefits for the week ending June 21, 2025, and for subsequent weeks, until such time as he meets the requirements of G.L. c. 151A, § 24(b), or 430 CMR 4.45.

⁵ Exhibits 6-16, 19 and 20, the claimant's weekly certifications for the weeks identified, are also part of the unchallenged evidence introduced at the hearing and placed into the record. They show that the claimant answered "yes" to the question, "Were you in good standing with your union, on your union's 'out of work' list, and capable and available to perform union work?" The DUA allows claimants who are members of unions that limit their members to accepting work through a union hiring hall to satisfy work-search requirements by adhering to all reporting and availability requirements imposed by the union. *See* DUA Adjudication Handbook (revised Mar. 1, 2020), Chapter 4, § 4(C)(3). Nothing in the record indicates that the claimant belongs to such a union.

BOSTON, MASSACHUSETTS
DATE OF DECISION - February 9, 2026



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Member



Michael J. Albano
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**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.

REB/rh