

While enrolled full-time in her community college business administration studies, the claimant remained available to work full-time hours during afternoon, evening, overnight, and weekend shifts. She has demonstrated that she is eligible for benefits under G.L. c. 151A, § 24(b).

**Board of Review
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Issue ID: 352-N47F-HNTF

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 April 13, 2025, which was initially approved. However, in a determination issued on October 1, 2025, she was denied benefits beginning the week ending September 6, 2025. The claimant appealed the determination to the DUA hearings department. Following a hearing on the merits, the review examiner modified the agency's initial determination and denied benefits for the weeks beginning August 31, 2025, through October 11, 2025. We accepted the claimant's application for review.

Benefits were denied after the review examiner determined that the claimant had not been available for full-time work, and, thus, she was disqualified under G.L. c. 151A, § 24(b). After considering the recorded testimony and evidence from the hearing, the review examiner's decision, and the claimant's appeal, we remanded the case to the review examiner to obtain further evidence about the claimant's availability to work full-time while she was in school. Thereafter, the review examiner issued his 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 concluded that the claimant had not been available to work full-time while enrolled in her full-time business administration courses, is supported by substantial and credible evidence and is free from error of law.

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 claim for unemployment benefits with the Department of Unemployment Assistance (DUA) effective April 13, 2025.

2. Prior to their claim, the claimant most recently worked full-time as a case manager for a neighborhood health center from February 6, 2016, until April 16, 2025.
3. The claimant has work experience as a case manager, administrative assistant, and customer service [sic].
4. The claimant completed high school and some college.
5. On September 3, 2025, the claimant began attending classes full-time at a community college. The claimant was attending an associate's program in business administration with an anticipated graduation date in two years.
6. Between September 3, 2025, and October 14, 2025, the claimant attended classes on Mondays from 11 a.m. to 1:45 p.m., Tuesdays from 1 p.m. to 3:50 p.m., Wednesdays from 11 a.m. to 1:45 p.m., and Thursdays from 1 p.m. to 3:50 p.m.
7. Between September 3, 2025, and October 14, 2025, the claimant spent approximately 1 hour and 30 minutes per week studying outside of class.
8. During the weeks beginning August 31, 2025, through October 5, 2025, the claimant was seeking work in a full-time position outside of her school hours. The claimant was seeking either a full-time position or multiple part-time positions. The claimant was seeking retail, restaurant, and home health aide work. The claimant completed at least three work search activities each week.
9. During the weeks beginning August 31, 2025, through October 5, 2025, the claimant was available for work on Mondays and Wednesdays after 3 p.m., Tuesdays and Thursdays after 5 p.m., and all day on Fridays, Saturdays, and Sundays.
10. During the weeks beginning August 31, 2025, through October 5, 2025, the claimant was capable of full-time employment without limitation.
11. In approximately September 2025, the claimant interviewed for a full-time barista position at a restaurant.
12. In approximately October 2025, the claimant interviewed for a full-time customer service position at a retail store.
13. On October 1, 2025, the DUA issued the claimant a Determination disqualifying them from benefits under Section 24(b) due to their full-time attendance in school.

14. On October 14, 2025, the claimant withdrew from classes and stopped attending school.
15. During the week beginning October 12, 2025, the claimant was physically capable of full-time employment without limitation.
16. During the week beginning October 12, 2025, and subsequent weeks, the claimant was available for full-time employment without limitation.
17. During the week beginning October 12, 2025, and subsequent weeks, the claimant was seeking full-time employment. The claimant completed at least three work search activities each week.

Credibility Assessment:

The claimant and the claimant's attorney attended the remand hearing. The claimant's testimony concerning her school schedule was consistent with her documentary evidence and is deemed credible. The claimant's testimony concerning her availability and work search was consistent with her documentary evidence and previous testimony and is deemed 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 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. We further believe that the review examiner's credibility assessment is reasonable in relation to the evidence presented. However, based upon these consolidated findings, we reject the review examiner's legal conclusion that the claimant is ineligible for benefits, as discussed below.

Our decision in this case is governed by 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 establish that unemployment benefits are intended to assist claimants in finding 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, the above-quoted provision requires that claimants be capable of, available for, and actively seeking full-time work while claiming unemployment benefits.

Because the claimant was going to college full-time and had not shown a history of working full-time while also attending school, the review examiner concluded that she was not available for full-time work. As we have consistently held, however, attending school full-time does not result in a *per se* disqualification or in a presumption that a person cannot be available for full-time work. *See* Board of Review Decision 0011 9491 62 (Feb. 19, 2015). While a history of both attending school and working full-time is a factor, it is not conclusive evidence of a claimant's availability while claiming unemployment benefits. Each case must be considered individually and on its own merits. For this reason, we remanded the case to inquire more specifically about the claimant's school schedule and availability to work.

After remand, the consolidated findings establish that, while in school during the period between September 3, 2025, and October 14, 2025, the claimant was available to work afternoon, evening, overnight, and weekend shifts. The claimant attended classes on Mondays and Wednesdays from 11:00 a.m. to 1:45 p.m., and Tuesdays and Thursdays from 1:00 p.m. to 3:50 p.m., which allowed her to be available for work on Mondays and Wednesdays after 3:00 pm, Tuesdays and Thursdays after 5:00 pm, and all day on Fridays, Saturdays, and Sundays. *See* Consolidated Findings ## 6 and 9. We can reasonably infer that the types of jobs she searched for in retail, restaurant, and home health aide services were available during those hours. Since there is no indication from the record that the claimant's availability was limited for any other reason, she has satisfied the statutory requirement to be available for full-time work.

Further, Consolidated Findings ## 8 through 12, 15, 16, and 17 show that, during the relevant period, the claimant was capable of and actively seeking full-time work.

We, therefore, conclude as a matter of law that the claimant has met the requirements that she be capable of, available for, and actively seeking full-time work within the meaning of G.L. c. 151A, § 24(b).

The review examiner's decision is affirmed in part and reversed in part. The claimant is entitled to receive benefits as of the week ending September 6, 2025, and thereafter if otherwise eligible.

BOSTON, MASSACHUSETTS
DATE OF DECISION - February 25, 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.

BGM/rh