

 **Maryland**
Department of Economic &
Employment Development

William Donald Schaefer, Governor
J. Randall Evans, Secretary

Board of Appeals
1100 North Eutaw Street
Baltimore, Maryland 21201
Telephone: (301) 333-5032

Board of Appeals
Thomas W. Keech, Chairman
Hazel A. Warnick, Associate Member
Donna P. Watts, Associate Member

— DECISION —

	Decision No.:	723-BR-90
	Date:	July 20, 1990
Claimant: Sheila Goldstein	Appeal No.:	9005587
	S.S. No.:	
Employer:	L O. No.:	15
	Appellant.:	CLAIMANT
Issue	Whether the claimant failed to file proper claims for benefits within the meaning of Section 4(b) of the law.	

—NOTICE OF RIGHT OF APPEAL TO COURT —

YOU MAY FILE AN APPEAL FROM THIS DECISION IN ACCORDANCE WITH THE LAWS OF MARYLAND. THE APPEAL MAY BE TAKEN IN PERSON OR THROUGH AN ATTORNEY IN THE CIRCUIT COURT OF BALTIMORE CITY, IF YOU RESIDE IN BALTIMORE CITY, OR THE CIRCUIT COURT OF THE COUNTY IN MARYLAND IN WHICH YOU RESIDE.

THE PERIOD FOR FILING APPEAL EXPIRES AT MIDNIGHT ON August 19, 1990

— APPEARANCES —

FOR THE CLAIMANT:

FOR THE EMPLOYER:

REVIEW ON THE RECORD

Upon review of the record in this case, the Board of Appeals reverses the decision of the Hearing Examiner. The Board agrees with the facts found by the Hearing Examiner but disagrees with some of the conclusions of law.

The claimant filed timely claims for the weeks ending March 10 and March 17, 1990. This is technically undisputed. However, she had not filed claims for the prior two-week period (because she was not seeking work for those two weeks). Consequently, she did not receive a claim card for the period for the weeks ending March 10 and March 17, 1990. However, the claimant filed timely claims for those two weeks on a claim card which she had that was marked "void." She attempted to correct it by writing the appropriate dates on the cards and mailing them to the agency. Unfortunately, the computer would not accept them, as the claimant's claim status was closed when the prior claim form was not received.

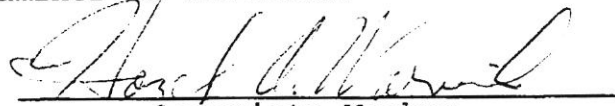
The Board has held in numerous cases that the agency cannot close a claim without reasonable justification and that the agency cannot deem a timely claim as untimely because the agency's data processing system is programmed to close cases in such a situation. To do so is, in effect, to create a new disqualification which does not exist in the statute. See, e.g., Carroll K. Simmons, 652-BH-90.

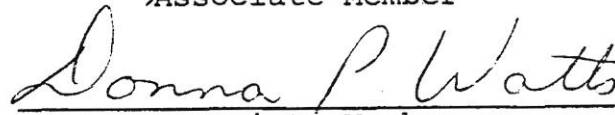
As in the Simmons case, above, the claimant here made a reasonable attempt to file her claims in a correct and timely manner. Her not filing one claim card for a two-week period (when she knew she wasn't eligible) does not justify the closing down of her claim. The claimant filed timely claims for the weeks ending March 10 and March 17. She filed a claim for the week ending March 24 on March 29, 1990; since this is within 14 days, this too was filed timely. There is no dispute that she did not file a timely claim for the week ending March 3, 1990.

DECISION

The claimant filed proper claims for benefits within the meaning of Section 4(b) of the Maryland Unemployment Insurance Law, for the weeks ending March 10, March 17 and March 24, 1990. No disqualification is imposed.

The decision of the Hearing Examiner is reversed.


Associate Member


Associate Member

HW:W

kbm

COPIES MAILED TO:

CLAIMANT

UNEMPLOYMENT INSURANCE - WESTMINSTER



Maryland

Department of Economic & Employment Development

William Donald Schaefer, Governor
J. Randall Evans, Secretary

William R. Merriman, Chief Hearing Examiner
Louis Wm. Steinwedel, Deputy Hearing Examiner

1100 North Eutaw Street
Baltimore, Maryland 21201

Telephone: 333-5040

— DECISION —

Date:	Mailed: 5/22/90
Claimant: Sheila M. Goldstein	Appeal No.: 9005587
	S.S. No.:
Employer:	LO. No.: 015
	Appellant: Claimant
Issue:	Whether the claimant failed to file proper claims for benefits within the meaning of Section 4(b) of the Law.

— NOTICE OF RIGHT TO PETITION FOR REVIEW —

ANY INTERESTED PARTY TO THIS DECISION MAY REQUEST A REVIEW AND SUCH PETITION FOR REVIEW MAYBE FILED IN ANY OFFICE OF THE DEPARTMENT OF ECONOMIC AND EMPLOYMENT DEVELOPMENT, OR WITH THE APPEALS DIVISION, ROOM515,1100 NORTH EUTAW STREET, BALTIMORE. MARYIAND 21201, EITHER IN PERSON OR BY MAIL

THE PERIOD FOR FILING A PETITION FOR REVIEW EXPIRES AT MIDNIGHT ON June 6, 1990

— APPEARANCES —

FOR THE CLAIMANT:

Claimant - Present

FOR THE EMPLOYER:

Other: Thomas Henderson, Claims Specialist

FINDINGS OF FACT

The claimant filed an original claim for unemployment insurance benefits effective February 11, 1990. She filed claims for the week ending February 17, 1990 and then was out of town for the next weeks. When she came back, the claimant had a form for the weeks ending February 24, 1990 and March 3, 1990 which she could not use because she did not seek work during those weeks. For the following two weeks the claimant did not receive a claim form

but she filed a claim for those weeks on a form which stated void! void! , instead of any week ending dates. As filed by the claimant, the form was rejected by the Agency's computer and thereafter, the claimant reported to the Local Office on March 29, 1990 to reopen her claim and request at that time to be allowed to file benefits for the weeks ending March 10, 17 and 24, 1990. This appeal followed.

CONCLUSIONS OF LAW

Article 95A, Section 4(b) provides that a claimant must file timely claims in order to be eligible for benefits.

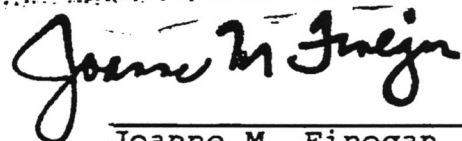
COMAR, Title 24, subsection .02.02.03D provides, in essence, that a claimant shall file his/her initial claim in person and thereafter' only by mail on claim certification forms issued to him/her. If such claim certification forms are not promptly received by the claimant, it is his/her responsibility to report immediately to the local office to obtain claim forms and/or resolve any problems with the claim. A claimant has the burden to show that he has complied with all Agency procedures. See In Re Imbesi (588-BH-82, 390-BH-84) and In Re Spiegel (580-BH-85).

The claimant was not unreasonable in her actions and in fact did file a claim for benefits for the weeks ending March 10 and 17, 1990 in a timely manner, albeit on an invalid form. But when she failed to file for the previous two week the claimant fell out of claims status and unfortunately the Agency makes no allowance for payment of claims when a claimant is not in claim status even when those claims are timely filed.

DECISION

It is held that the claimant failed to file proper claims for benefits, within the meaning of Section 4(b) of the Law. Benefits are denied from March 4, 1990 to March 24, 1990.

The determination of the Claims Examiner is affirmed.



Joanne M. Finegan
Hearing Examiner

Date of Hearing: May 9, 1990
lr/Specialist ID: 15702
Cassette No: 3851-90
Copies mailed on May 22, 1990 to:

Claimant
Unemployment Insurance - Westminster (MABS)