



# Maryland

## Department of Economic & Employment Development

*William Donald Schaefer*  
Governor  
*Mark L. Wasserman*  
Secretary

*Board of Appeals*  
1100 North Eutaw Street  
Baltimore, Maryland 21201  
Telephone: (410) 333-5032

### - DECISION -

Claimant:  
SUSAN A. ENSEY

Decision No.: 01355-BR-94

Date: April 22, 1994

Appeal No.: 9402052

Employer:

S.S. No.:

L.O. No.: 11

Appellant: Claimant

Issue: Whether the claimant was able, available and actively seeking work within the meaning of the Maryland Code, Labor and Employment Article, Title 8 Section 903.

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### - NOTICE OF RIGHT OF APPEAL TO COURT -

You may file an appeal from this decision in the Circuit Court for Baltimore City or one of the Circuit Courts in a county in Maryland. The court rules about how to file the appeal can be found in many public libraries, in the Maryland Rules of Procedure, Title 7, Chapter 200.

The period for filing an appeal expires: May 22, 1994

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### REVIEW ON THE RECORD

Upon review of the record in this case, the Board of Appeals adopts the findings of fact of the Hearing Examiner. However the Board concludes that these facts warrant a different conclusion of law.

Section 8-903 of the Labor and Employment Article requires that a claimant be able to work, available to work and actively seeking work in order to receive unemployment benefits.

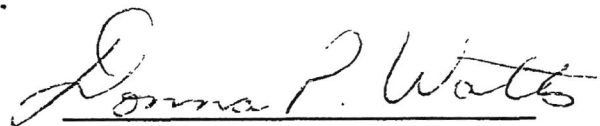
It is not a restriction on your availability to work for a parent to state that if their child becomes ill or the child's school is required to close unexpectedly she would be required to pick her up.

In today's real world the majority of mother's work and when emergencies arise must leave work to pick up their children. Available day care does not provide transportation services.

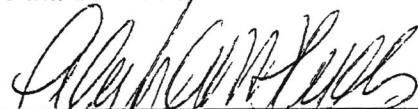
DECISION

The claimant is able to work, available to work and actively seeking work within the meaning of §8-903 of the Labor and Employment Article. No disqualification from the receipt of benefits shall be imposed under this section of the law from the week beginning January 9, 1994.

The decision of the Hearing Examiner is reversed.



Donna P. Watts, Associate Member



Clayton A. Mitchell, Sr., Associate Member

kjk

Copies mailed to:

SUSAN A. ENSEY

Local Office - #11

**UNEMPLOYMENT INSURANCE APPEALS DECISION**

SUSAN A. ENSEY

Before the:

**Maryland Department of Economic and  
Employment Development**

**Appeals Division**

1100 North Eutaw Street

Room 511

Baltimore, MD 21201

(410) 333-5040

SSN #

**Claimant**

vs.

Appeal Number: 9402052

Appellant: Claimant

Local Office: 11 / Chestertown

**Employer/Agency**

March 4, 1994

**For the Claimant: PRESENT**

**For the Employer:**

**For the Agency:**

**ISSUE(S)**

Whether the claimant is able to work, available for work and actively seeking work within the meaning of the MD Code Annotated, Labor and Employment Article, Title 8 Sections 903 and 904.

**FINDINGS OF FACT**

The claimant's benefit year began January 9, 1994. At the time the claimant filed for benefits, the only child care that she had for her eight year old daughter was the daughter's school for which she was placed on the school bus at 7:40 a.m. on each day when school was in session. The claimant had no other alternative for child care if her daughter became ill or school had let out early and she was required to pick up her daughter.

**CONCLUSIONS OF LAW**

The Code of Maryland, Labor and Employment Article, Title 8, Sections 903 and 904, provide that a claimant for unemployment insurance benefits must be (1) able and available for work and (2) actively seeking work without restrictions upon her availability for work. In Robinson v. Employment Security Board, (202 Md. 515), the Court of Appeals upheld the principle that a

claimant may not impose restrictions upon her willingness to work and still be "available" as the Statute requires.

#### EVALUATION OF EVIDENCE

In the instant case, the claimant has failed to establish that she was able and available for work and actively seeking work without restrictions upon her availability for work within the meaning of Maryland Code, Labor and Employment Article, Title 8, Section 903. The claimant's testimony was to the effect that her primary responsibility was, of course, to her child and that public school is not a viable alternative for child care, and as such, the lack of adequate child care is a restriction upon the claimant's availability for work within the meaning of the Law. If the claimant has since obtained viable child care, the claimant should contact the Local Office to reopen her claim.

#### DECISION

The benefit determination of the Claims Examiner is affirmed.

It is held that the claimant was not able and available for work and actively seeking work without restrictions during the week beginning January 9, 1994, and as such, benefits are denied the claimant from the week beginning January 9, 1994 and until she meets all the other requirements of the Law.

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R. E. Frederick, ESQ  
Hearing Examiner

#### Notice of Right to Petition for Review

Any party may request a review **either in person or by mail** which may be filed in any local office of the Department of Economic and Employment Development, or with the Board of Appeals, Room 515, 1100 North Eutaw Street, Baltimore, MD 21201. Your appeal must be filed by **March 21, 1994**.

Note: Appeals filed by mail are considered timely on the date of the U.S. Postal Service postmark.

Date of hearing: February 24, 1994  
NIP/Specialist ID: 11501  
Seq. No.: 002  
Copies mailed on March 4, 1994 to:

SUSAN A. ENSEY  
LOCAL OFFICE #11