

**- DECISION -**

Claimant:  
MAUDE MASSAQUOI

Decision No.: 2605-BR-12

Date: May 23, 2012

Appeal No.: 1201445

S.S. No.:

Employer:

L.O. No.: 64

Appellant: Claimant

Issue: Whether the claimant has been making a systematic and sustained search for work within the meaning of Section 8-1104 of Maryland Unemployment Insurance Law.

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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: June 22, 2012

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**REVIEW OF THE RECORD**

After a review of the record, and after deleting the last paragraph, the Board adopts the hearing examiner's modified findings of fact. The Board makes the following additional findings of fact:

The claimant conducts the bulk of her work search on-line, using job billboard web-sites and individual company web-sites. The claimant knew the Agency's expectations and was actively seeking work. The claimant gave her work-search logs to her teen-aged son so that he could mail them to the Agency for her. The Agency did not receive the claimant's work-search logs for the weeks in question.

The Board concludes that these facts warrant different conclusions of law and a reversal of the hearing examiner's decision.

The General Assembly declared that, in its considered judgment, the public good and the general welfare of the citizens of the State required the enactment of the Unemployment Insurance Law, under the police powers of the State, for the compulsory setting aside of unemployment reserves to be used for the benefit of individuals unemployed through no fault of their own. *Md. Code Ann., Lab. & Empl. Art., §8-102(c)*. Unemployment compensation laws are to be read liberally in favor of eligibility, and disqualification provisions are to be strictly construed. *Sinai Hosp. of Baltimore v. Dept. of Empl. & Training, 309 Md. 28 (1987)*.

The Board reviews the record *de novo* and may affirm, modify, or reverse the findings of fact or conclusions of law of the hearing examiner on the basis of evidence submitted to the hearing examiner or evidence that the Board may direct to be taken. *Md. Code Ann., Lab. & Empl. Art., §8-510(d)*. The Board fully inquires into the facts of each particular case. *COMAR 09.32.06.03(E)(1)*.

*Md. Code Ann., Labor & Emp. Article, §1104(f)* provides that an individual who receives extended benefits, shall (1) make a sustained and systematic effort throughout the week to find work; and (2) submit tangible evidence of the effort to the Secretary.

The Agency has defined "a sustained and systematic effort" to mean at least four job contacts on three different days during each week for which benefits are claimed. The claimant credibly testified that she was actively seeking employment during the entire period in question. She testified that she was making multiple job contacts each week. The claimant only had specific information for one of the weeks, but testified the remainder had been sent to the Agency. The claimant could not recall the companies to which she sent resumes or the dates upon which she did that. The Board notes that the hearing was two months after the weeks in question. The Board does not find it damaging to the claimant's credibility that she could not remember these details.

The claimant also credibly testified that she gave her paperwork to her son for him to mail to the Agency. The claimant trusted that he had done as she asked. The Agency did not receive the work-search logs. Neither the claimant, nor the Agency, nor the hearing examiner had any idea why the Agency did not receive the logs. The Agency, and the hearing examiner, seemed to be operating under the assumption that the claimant did not mail the logs. And, while that is certainly one possible explanation, it does not preclude other possibilities: the U. S. Postal Service did not properly deliver the logs; the logs were misplaced at the Agency; or the logs were lost somewhere.

There is, and has been for many years, a presumption that a letter, properly addressed, with sufficient postage affixed, which is properly deposited with the U. S. Mail, will be delivered in due course. Unfortunately, that presumption does not have the weight it had in the past. The Postal Service has become less reliable over time and some courts have taken notice that the presumption of delivery is more easily overcome by credible testimony.

The statute in question requires both the expanded work search and the claimant to “submit tangible evidence”. The statute does not require the claimant to assure receipt of the work-search logs; the statute does not require hand-delivery. The claimant credibly testified that she caused the work-search logs to be mailed to the Agency. The Board finds no reason to doubt the claimant’s truthfulness. The Board will not hold the claimant responsible for the completed delivery of the logs.

The claimant testified throughout the hearing that she was seeking a variety of employment positions for which she was qualified and experienced. For the week for which she had a copy of her work-search logs, the claimant provided ample and specific information about her work search. She testified she conducted a similar work search throughout, but did not have the details because she had mailed the information to the Agency. Perhaps she should have kept a copy of those logs, but she did not, and such an action is not required. The claimant offered to reconstruct her work-search efforts from her e-mail. The Board is satisfied that the claimant has conducted a sustained and systematic work search, within the meaning of §1104(f)(1), for the week beginning November 27, 2011 through the week ending December 17, 2011.

The Board notes that there is an established principle: “Unemployment compensation laws should be read liberally in favor of eligibility, and disqualification provisions are to be strictly construed.” *Sinai Hosp. of Baltimore, Inc, v, Department of Emp. & Training, 309 Md. 28, A.2d 382 (1987).*

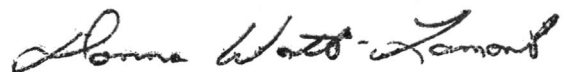
The Board notes that the hearing examiner did not offer or admit the *Agency Fact Finding Report* into evidence. The Board did not consider this document when rendering its decision.

The Board finds based upon a preponderance of the credible evidence that the claimant has engaged in a sustained and systematic work search, within the meaning of Md. Code Ann., Labor & Emp. Article, §8-1104, and is eligible to receive extended benefits. The decision shall be reversed for the reasons stated herein.

### DECISION

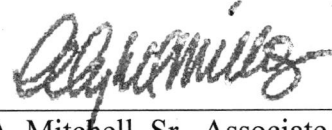
IT IS HELD THAT the claimant did make a systematic and sustained search for work within the meaning of Md. Code Ann., Labor & Emp. Article, Section 8-1104. Benefits are allowed from the week beginning November 27, 2011.

The Hearing Examiner’s decision is reversed.



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Donna Watts-Lamont, Chairperson



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Clayton A. Mitchell, Sr., Associate Member

RD

Copies mailed to:

MAUDE MASSAQUOI

SUSAN BASS DLLR

Susan Bass, Office of the Assistant Secretary

## **UNEMPLOYMENT INSURANCE APPEALS DECISION**

MAUDE MASSAQUOI

SSN #

**Claimant**

vs.

**Employer/Agency**

Before the:

**Maryland Department of Labor,  
Licensing and Regulation**

**Division of Appeals**

1100 North Eutaw Street

Room 511

Baltimore, MD 21201

(410) 767-2421

Appeal Number: 1201445

Appellant: Claimant

Local Office : 64 / BALTOMETRO  
CALL CENTER

February 21, 2012

**For the Claimant: PRESENT**

**For the Employer:**

**For the Agency: , DAVID MOORE**

### **ISSUE(S)**

Whether the claimant has been making a systematic and sustained search for work within the meaning of Section 8-1104 of the Maryland Unemployment Insurance Law.

### **FINDINGS OF FACT**

The claimant, Maude Massaquoi, filed a claim for unemployment insurance benefits establishing a benefit year beginning June 13, 2010 with a weekly benefit amount of \$410.

The claimant became eligible to receive extended benefits in Maryland effective November 6, 2011. At the time she filed for extended benefits, the Agency advised the claimant that the claimant was classified as having "Not Good" job prospects, which meant that she was required to make a "sustained and systematic" search for work. The Agency further advised that, under the Agency's interpretation, a "sustained and systematic" search for work means that the claimant must search for work on at least three (3) days per week and make a total of at least four (4) work search contacts each week.

From November 20, 2011 through November 26, 2011 the claimant searched for work on at least three (3) days per week and made four (4) job contacts per week, every week. The claimant sought work as an acquisitions specialist at Tatiplik on November 23, 2011, as a computer tech support analyst and a senior support tech at Lockheed Martin on November 25, 2011, and as a help desk analyst for Aboutweb.com on November 26, 2011.

From November 27, 2011 through December 17, 2011 the claimant did not make any job contacts. The claimant stated that she did make job contacts, but could not say what job contacts she made because she sent the information to the Agency. The Agency, however, has no files or records from the claimant about her job searches.

### **CONCLUSIONS OF LAW**

Md. Code Ann., Labor & Emp. Article, Section 1104(f)(1) provides that an individual who receives extended benefits, shall (1) make a sustained and systematic effort throughout the week to find work; and (2) submit tangible evidence of the effort to the Secretary.

Md. Code Ann., Labor & Emp. Article, Section 1108(a) provides that an individual is disqualified from receiving extended benefits if the individual fails to comply with the requirements of Section 1104(f)(1) of this subtitle unless the failure results from:

- (1) a summons to appear for jury duty before a court of the United States or of a state; or
- (2) hospitalization of the individual for emergency treatment or treatment of a life-threatening situation.

Md. Code Ann., Labor & Emp. Article, Section 1105(d) provides that an individual who is otherwise eligible to receive benefits may not be denied extended benefits for any week because the individual (1) is in a training program that the United States Secretary of Labor approves under 19 U.S.C. Section 2296(a)(1).

### **EVALUATION OF EVIDENCE**

The Hearing Examiner considered all of the testimony and evidence of record in reaching this decision. Where the evidence was in conflict, the Hearing Examiner decided the facts on the credible evidence as determined by the Hearing Examiner.

The evidence establishes that the claimant made a systematic and sustained search for work within the meaning of the Maryland Unemployment Insurance Law, Section 8-1104(f)(1) during the week from November 20, 2011 through November 26, 2011. Although the claimant testified that she did make a systematic and sustained search for work between November 27, 2011 and December 17, 2011, the claimant could not articulate when and where she searched for work. The claimant then testified that the reason she could not provide her job search information was because she sent the documents with that information to the Agency. The Agency, however, has no job search records from the claimant. Therefore, the claimant's testimony is not credible. The law is clear and unequivocal that one who seeks benefits must

make an active search for work during each week that she seeks benefits. It is not permissible to cease looking at any time while still in claim status. In the instant case, as the claimant has failed to make an active search for work, she will be disqualified from receiving benefits.

### DECISION

IT IS HELD THAT the claimant did not make a systematic and sustained search for work within the meaning of Md. Code Ann., Labor & Emp. Article, Section 8-1104(f)(1). Benefits are denied from the week beginning November 27, 2011 and until the claimant has worked during four weeks and earned four times the weekly benefit amount in covered employment.

The determination of the Claims Specialist is modified.

*D W Purdie Esq.*

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D W Purdie, Esq.  
Hearing Examiner

### Notice of Right to Request Waiver of Overpayment

The Department of Labor, Licensing and Regulation may seek recovery of any overpayment received by the Claimant. Pursuant to Section 8-809 of the Labor and Employment Article of the Annotated Code of Maryland, and Code of Maryland Regulations 09.32.07.01 through 09.32.07.09, the Claimant has a right to request a waiver of recovery of this overpayment. This request may be made by contacting Overpayment Recoveries Unit at 410-767-2404. If this request is made, the Claimant is entitled to a hearing on this issue.

**A request for waiver of recovery of overpayment does not act as an appeal of this decision.**

**Esto es un documento legal importante que decide si usted recibirá los beneficios del seguro del desempleo. Si usted disiente de lo que fue decidido, usted tiene un tiempo limitado a apelar esta decisión. Si usted no entiende cómo apelar, usted puede contactar (301) 313-8000 para una explicación.**

### Notice of Right of Further Appeal

Any party may request a further appeal either in person, by facsimile or by mail with the Board of Appeals. Under COMAR 09.32.06.01A(1) appeals may not be filed by e-mail. Your appeal must be filed by March 7, 2012. You may file your request for further appeal in person at or by mail to the following address:

Board of Appeals  
1100 North Eutaw Street  
Room 515  
Baltimore, Maryland 21201  
Fax 410-767-2787  
Phone 410-767-2781

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

Date of hearing : January 31,2012  
TH/Specialist ID: RWD3D  
Seq No: 003  
Copies mailed on February 21, 2012 to:  
MAUDE MASSAQUOI  
LOCAL OFFICE #64  
SUSAN BASS DLLR