

# Maryland

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DEPARTMENT OF ECONOMIC AND EMPLOYMENT DEVELOPMENT



**BOARD OF APPEALS**

Thomas W. Keech  
Chairman

Hazel A. Warnick  
Associate Member

1100 North Eutaw Street  
Baltimore, Maryland 21201  
(301) 333-5033

William Donald Schaefer, Governor  
J. Randall Evans, Secretary

	Decision No.:	31-BR-88
	Date:	Jan. 13, 1988
Claimant: Deborah Young	Appeal No.:	8708394
	S. S. No.:	
Employee: Evergreen Health Group ATTN: Personnel	L.O. No.:	1
	Appellant:	CLAIMANT

Issue: Whether the claimant left work voluntarily, without good cause, within the meaning of Section 6(a) of the law; and whether the claimant had good cause for filing a late appeal within the meaning of Section 7(c)(3) of the law.

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— NOTICE OF RIGHT OF APPEAL TO COURT —

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

February 12, 1988

THE PERIOD FOR FILING AN APPEAL EXPIRES AT MIDNIGHT ON

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— APPEARANCES —

FOR THE CLAIMANT:

FOR THE EMPLOYER:

REVIEW ON THE RECORD

This case was reopened by the Board of Appeals on December 21, 1987, pursuant to Board regulations at COMAR 24.02.06.04E.

Upon further review, the Board will reverse the decision on the merits of this case. (With respect to Section 7(c)(3), i.e. good cause for late appeal, the Board will adopt the Findings of fact and conclusions of law of the Hearing Examiner. )

The Board makes the following findings of fact with respect to the merits of the case. The claimant was first employed with American Health Systems in October of 1984. Her hours were from 5:00 a.m. until 1:30 p.m. This schedule had been in effect from the beginning of her employment, but there was no express agreement that she would always have that schedule. The claimant arranged child care for her seven-year-old son around her work hours.

In April of 1987, the claimant's hours were abruptly changed to 4:00 p.m. to 12:00 a.m. The claimant learned about this on the phone on the day preceding the new schedule. The claimant was informed that she must conform to the new schedule (or an alternative schedule of 12:00 a.m. to 8:00 a.m.) immediately. The claimant was unable to make the necessary changes in her day care arrangements in time to make this shift change on the following day. The claimant was capable of making changes in her child care arrangements, but not on notice this short.

The Board is reconsidering this case because it overlooked the aspect of the short notice period within which the claimant would have to change her child care arrangements. The claimant's reason for leaving work did not constitute good cause, as there was no previous assurance that the claimant's schedule would remain the same, and the employer was within its rights in changing the schedule. The Board does find, however, that the claimant had a "valid circumstance" for leaving the employment, in that she was required to change the shift she had worked for years abruptly and without being given a reasonable chance to change her child care arrangements.

The Board has held in the past that an employer's modification of its longstanding practice of accommodating the employee's schedule is a substantial cause connected with the employment and justifies imposing less than the maximum penalty. Lysher v. Schmidt Baking Co. (112-BR-82). In a case where an employee's babysitter for her seven-month-old child quit suddenly and without notice, and where the employer denied the claimant a short leave of absence in order to make other child care arrangements, the Board also found "valid circumstances" justifying less than the maximum penalty. Gabliszkeski v. Cleaners Hanger Company (981-BR-86). The instant case has aspects of both of the cases cited above, and the Board



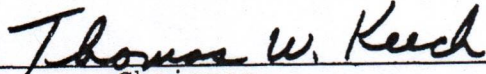
concludes that the claimant did have "valid circumstances" for leaving her employment. The maximum penalty, therefore, will not be imposed.

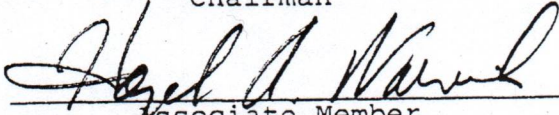
DECISION

The claimant had good cause for filing a late appeal under Section 7(c)(3) of the law.

The claimant left work voluntarily, without good cause but with valid circumstances. Benefits are denied from the week beginning April 12, 1987 and the nine weeks immediately following.

The decision of the Hearing Examiner, and the previous decision of the Board, dated December 11, 1987, are reversed.

  
\_\_\_\_\_  
Chairman

  
\_\_\_\_\_  
Associate Member

K:W  
kbm  
COPIES MAILED TO:

CLAIMANT  
EMPLOYER  
UNEMPLOYMENT INSURANCE - BALTIMORE

# Maryland

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DEPARTMENT OF ECONOMIC AND EMPLOYMENT DEVELOPMENT

**BOARD OF APPEALS**

Thomas W. Keech  
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Associate Member

1100 North Eutaw Street  
Baltimore, Maryland 21201  
(301) 333-5033



William Donald Schafer, Governor  
J. Randall Evans, Secretary

Decision No.: 878 -BR-87  
Date: Dec. 11, 1987  
Appeal No.: 8708394  
S. S. No.:  
Employer: American Health Systems, Inc.  
c/o The Gibbens Company  
L.O. No.: 1  
Appellant: CLAIMANT

Issue: Whether the claimant left work voluntarily, without good cause, within the meaning of Section 6(a) of the law.

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— NOTICE OF RIGHT OF APPEAL TO COURT —

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January 10, 1988

THE PERIOD FOR FILING AN APPEAL EXPIRES AT MIDNIGHT ON

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— APPEARANCES —

FOR THE CLAIMANT:

FOR THE EMPLOYER:

REVIEW ON THE RECORD

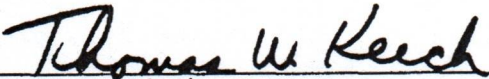
Upon review of the record in this case, the Board of Appeals adopts the facts and reasoning contained in the decision of the Hearing Examiner.

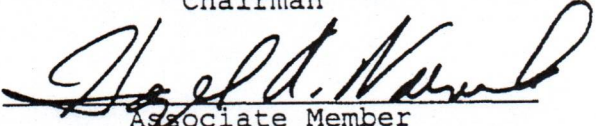
The Board notes that the claimant quit without attempting to discuss her problem with the employer and without asking the employer for time to find a babysitter.

DECISION

The clamant left work voluntarily, without good cause, within the meaning of Section 6(a) of the Maryland Unemployment Insurance Law. She is disqualified from receiving benefits from the week beginning April 12, 1987 and until she becomes reemployed, earns at least ten times her weekly benefit amount, and thereafter becomes unemployed through no fault of her own.

The decision of the Hearing Examiner is affirmed.

  
Chairman

  
Associate Member

K:W  
kbm  
COPIES MAILED TO:

CLAIMANT

EMPLOYER

American Health Systems, Inc.  
ATTN: Personnel Dept.

UNEMPLOYMENT INSURANCE - BALTIMORE





DEPARTMENT OF EMPLOYMENT AND TRAINING

STATE OF MARYLAND
1100 NORTH EUTAW STREET
BALTIMORE, MARYLAND 21201

(301) 383-5040

STATE OF MARYLAND
William Donald Schaefer
Governor

BOARD OF APPEALS

THOMAS W. KEECH
Chairman

HAZEL A. WARNICK

Associate Member:

SEVERN E. LANIER
Appeals Counsel

MARK R. WOLF
Chief Hearing Examiner

DECISION

Date Mailed October 1, 1987

Claimant: Deborah J. Young

Appeal No.: 8708394, 8708395

S. S. No.:

Employer: American Health Systems, IQ Inco. No. 1
c/o The Gibbens Company, Inc.

Appellant: Claimant

Issue: Whether the Claimant voluntarily quit his employment, without good cause, within the meaning of Section 6 (a) of the Law. Whether the Claimant is able to work, available for work and actively seeking work under Section 4 (c) of the Law. Whether the Appeal was late under Section 7 (c) (3) of the Law.

NOTICE OF RIGHT OF FURTHER APPEAL

ANY INTERESTED PARTY TO THIS DECISION MAY REQUEST A FURTHER APPEAL AND SUCH APPEAL MAY BE FILED IN ANY EMPLOYMENT SECURITY OFFICE OR WITH THE APPEALS DIVISION, ROOM 515, 1100 NORTH EUTAW STREET, BALTIMORE MARYLAND 21201 EITHER IN PERSON OR BY MAIL.

THE PERSON FOR FILING A PETITION FOR REVIEW EXPIRES AT MIDNIGHT ON October 16, 1987

APPEARANCES

FOR THE CLAIMANT:
Present

FOR THE EMPLOYER:
Not represented

FINDINGS OF FACT

The Claimant has a benefit year effective April 26, 1987. Her weekly benefit amount is \$110.00. The Claimant was employed with American Health Systems, Incorporated of Baltimore, Maryland on October 27, 1984. She was performing duties as a laundry worker at \$4.30 per hour at the time of her separation on April 17, 1987.

The testimony reveals that the Claimant filed her appeal on August 12, 1987, although the last day to file an appeal was June 25, 1987. The Claimant contends that she did not receive a copy of the Claims Examiner's determination and did not find out she had been disqualified until a month later when she came to the local office to inquire about a claim card. It must be noted from the file, however, that the Claimant has never had any difficulty in receiving her claim cards or other notices from this Agency.

The Claimant had worked from 5:00 a.m. to 1:30 p.m. since she started with American Health Systems in October of 1984. In April of 1987, the new employer indicated that her hours would be changed from 4:00 p.m. to 12:30 a.m. The Claimant worked from 5:00 a.m. to 1:30 p.m. at which time her seven year old son was in school, and she did not need a babysitter. However, on this new schedule, from 4:00 p.m. to 12:30 a.m., the Claimant needed a babysitter and the employer did not give her any time to find one.

The Claimant's mother had a job and her sister was sick, and she had no one else to sit for her son, and therefore she had to quit her employment.

Since leaving her employment, however, her mother-in-law has lost her job and indicated that she would be a babysitter in the event that the Claimant becomes employed. The Claimant has remained unemployed from April 17, 1987 to the present.

#### CONCLUSIONS OF LAW

It is concluded from the testimony that the Claimant left her employment voluntarily for personal reasons which are not connected with the employment and do not constitute good cause. Babysitting facilities or child care arrangements are strictly the responsibility of the Claimant and not the employer. The employer offers a job to the Claimant and it is her responsibility to get there. The determination of the Claims Examiner therefore will be affirmed.

The Claimant is able, available and actively seeking work within the meaning of Section 4 (c) of the Law. She immediately got a babysitter in the person of her mother-in-law in the event that she becomes employed. The determination of the Claims Examiner will be reversed.

The Claimant did have good cause for filing a late appeal, since she apparently did not receive a copy of the Claims Examiner's determination.



## DECISION

The Claimant had good cause for filing a late appeal.

The unemployment of the Claimant was due to voluntarily leaving her employment without good cause, within the meaning of Section 6 (a) of the Law. She is disqualified from receiving benefits for the week beginning April 12, 1987 and until such time as she becomes reemployed and earns at least ten times her weekly benefit amount (\$1,100.00) and thereafter becomes unemployed through no fault of her own. The determination of the Claims Examiner under Section 6 (a) of the Law is affirmed. (Appeal No. 8708394)

The Claimant is able, available and actively seeking work within the meaning of Section 4 (c) of the Law. No disqualification will be imposed under this Section of the Law. The determination of the Claims Examiner under Section 4 (c) of the Law is reversed. (Appeal No. 8708395)

*William R. Merriman*  
William R. Merriman  
Hearing Examiner

Date of Hearing: September 8, 1987

Cassette: 5064 (Groves)

Copies Mailed on October 1, 1987 to:

Claimant

Employer

Unemployment Insurance - Baltimore (MABS)