



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*

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

— DECISION —

	Decision No.:	699-BR-93	
	Date:	April 20, 1993	
Claimant:	Michael J. Logan, Sr.	Appeal No.:	9225698
		S. S. No.:	
Employer:		L. O. No.:	8
		Appellant:	CLAIMANT
Issue:	Whether the claimant was able, available and actively seeking work, within the meaning of §8-903 of the Labor and Employment Article.		

— 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 AN APPEAL EXPIRES

May 20, 1993

— 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 finds that the claimant's medical condition does not so severely restrict his availability for work as to make him unavailable for work, within the meaning of §8-903 of the Labor and Employment Article. The claimant was seeking full time work in the Annapolis/Parole area, as an auto mechanic. His credible testimony, that there is a substantial number of mechanic jobs in that geographic area, is supported by the fact that he had already obtained a job within approximately one month from the time he filed for benefits.

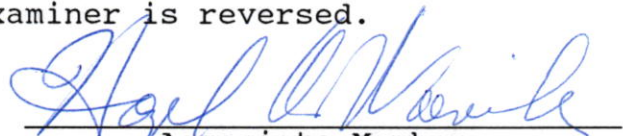
In cases where the geographic area in which a claimant can search for work is limited by the fact that he does not own an automobile or have a drivers license, the Board has long held that a claimant is not disqualified from benefits, provided he is making a reasonable and active search for work under the circumstances. See, e.g., Taylor, 796-BR-81; see also, the Court of Appeals decision in E.S.A. Board of Appeals v. Smith, 282 Md. 267, 383 A. 2d 1108 (1978).

The Board concludes that similar reasoning should be applied here, where the limitations are the result of a documented medical condition, that does not otherwise prevent the claimant from working full time. For these reasons, the decision of the Hearing Examiner will be reversed.


DECISION

The claimant is able to work, available for work and actively seeking work within the meaning of §8-903 of the Labor and Employment Article. No disqualification is imposed under this section of the law.

The decision of the Hearing Examiner is reversed.



Associate Member



Chairman

HW:K

kbm

COPIES MAILED TO:

CLAIMANT

UNEMPLOYMENT INSURANCE - ANNAPOLIS



Maryland

Department of Economic & Employment Development

William Donald Schaefer, Governor

Mark W. Wasserman, Secretary

Gary W. Wiedel, Administrator

Louis Wm. Steinwedel, Chief Hearing Examiner

Room 511

1100 North Eutaw Street

Baltimore, Maryland 21201

Telephone: (410) 333-5040

— D E C I S I O N —

Date: Mailed: 1/20/93

Claimant: Michael J. Logan, Sr. Appeal No.: 9225698

S. S. No.:

Employer: L.O. No.: 08

Appellant: Claimant

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

— NOTICE OF RIGHT TO PETITION FOR REVIEW —

ANY INTERESTED PARTY TO THIS DECISION MAY REQUEST A REVIEW AND SUCH PETITION FOR REVIEW MAY BE FILED IN ANY OFFICE OF THE DEPARTMENT OF ECONOMIC AND EMPLOYMENT DEVELOPMENT, OR WITH THE BOARD OF APPEALS, ROOM 515, 1100 NORTH EUTAW STREET, BALTIMORE, MARYLAND 21201, EITHER IN PERSON OR BY MAIL.

February 4, 1993

THE PERIOD FOR FILING A PETITION FOR REVIEW EXPIRES ON

NOTE: APPEALS FILED BY MAIL, INCLUDING SELF-METERED MAIL, ARE CONSIDERED FILED ON THE DATE OF THE U.S. POSTAL SERVICE POSTMARK.

— A P P E A R A N C E S —

FOR THE CLAIMANT:

Claimant
Beverly Logan (Mother)

FOR THE EMPLOYER:

Other: Nikki Gladding, Supervisor, DEED

FINDINGS OF FACT

The claimant's benefit year began November 8, 1992. During the week beginning November 8, 1992, the claimant had limited his geographical working area to Annapolis/Parole area because he was suffering from Agrophobia which

precipitated panic attacks if he had to leave the Annapolis/Parole area to work. The claimant submitted a physician's statement to the Agency attesting to the claimant's Agroaphobia which was to be limited to a geographical area of work.

CONCLUSIONS OF LAW

The Code of Maryland, Labor and Employment Article, Title 8, Section 903 and 904 provides that a claimant for unemployment insurance benefits must be (1) able and available for work and (2) actively seeking work without restrictions upon his/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 his/her willingness to work and still be "available" as the Statute requires.

In the instant case, the testimony of the claimant set forth that he did suffer from panic attacks and that traveling out of the Annapolis/Parole area could cause the same to occur. The claimant's testimony was that there are plenty of auto repair facilities in the Annapolis/Parole area, but limiting himself to that area could have caused him to turn down employment in other locations within a short distance of Annapolis. The claimant testified that he did have a driver's license.

As a result, it will be held by this Examiner that the claimant had placed restrictions upon his availability for work within the MD Code, Labor and Employment Article, Title 8, Section 903.

DECISION

The benefit determination of the Claims Examiner is affirmed. The claimant was not able, available and actively seeking work, without restrictions, within the meaning of MD Code, Labor and Employment Article, Title 8, Section 903. Benefits are denied the week beginning November 8, 1992 and until he meets the requirements of the Law.


Raymond E. Frederick
Hearing Examiner *1cp*

Date of Hearing: 1/14/93
lc/Specialist ID: 08003

Copies Mailed on 1/20/93 to:
Claimant
Unemployment Insurance - Annapolis (MABS)