

- DECISION -

Claimant:	Decision No.:	175-BR-13
FRANCIS GALE	Date:	February 27, 2013
	Appeal No.:	1235370
	S.S. No.:	
Employer:	L.O. No.:	64
,	Appellant:	Claimant

Issue: Whether the claimant failed to register for work or report as required within the meaning of Maryland Code, Labor and Employment Article, Title 8, Section 902.

- 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: April 1, 2013

REVIEW OF THE RECORD

After a review of the record, and after deleting "or about" from the first sentence of the third paragraph, the Board adopts the hearing examiner's modified findings of fact and conclusions of law.

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 09.32.06.02(E)*.

A claimant who is otherwise qualified for unemployment insurance benefits must also meet the continuing eligibility requirements of the law. This includes the requirement that the claimant report to a designated office, if required. *Md. Code Ann., Labor & Emp. Article, §8-902*.

In addition, section *09.32.02.04C* of COMAR provides in pertinent part:

C. Appointments.

- (1) The Secretary shall schedule an appointment for a claimant:
 - (a) Whenever there is an indication that the claimant does not meet the requirements of the Unemployment Insurance Law or these regulations; and
 - (b) Periodically to monitor the claimant's continuing ability to work, availability for work, and to assist the claimant in the work search process.
- (2) The claimant shall be given notice by mail or electronic means of the time, date, place, and type of the appointment and notified whether the appointment will be by telephone or in person. The notice shall include any issue to be resolved.
- (3) If the claimant is unable to report as instructed for the appointment, the claimant shall complete the form provided and return it to the Secretary before the appointment. The claimant's response shall include the reason the claimant is unable to report as instructed and shall provide any information that should be considered on the issue to be resolved.
- (4) If the claimant fails to report as instructed for the scheduled appointment or the office designated by the Secretary does not receive requested information from the claimant by the time of the appointment, the decision shall be based on information available to the Secretary at the time of the appointment.
- (5) If the claimant fails to report as instructed for any scheduled Department appointment, benefits may be terminated or suspended for that reason alone.
[emphasis added]

In this case, the claimant was required to report for a skills assessment and reemployment services meeting. The claimant received the notice of this appointment, but forgot about it. The claimant did not attend, but later rescheduled and completed this requirement.

Because the claimant did not establish good cause for her failure to attend the initially-scheduled meeting, she cannot be eligible for benefits, regardless of any other consideration, unless and until she meets all of the Agency's requirements. Once the claimant attended the rescheduled appointment, she fulfilled that

requirement. The claimant is entitled to benefits, as of the week beginning October 21, 2012, if she is otherwise qualified and eligible.

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, from the week beginning September 9, 2012 through the week ending October 20, 2012, the claimant failed to meet the reporting requirements within the meaning of Md. Code Ann., Labor & Emp. Article, §8-902. The decision shall be affirmed for the reasons stated herein and in the hearing examiner's decision.

DECISION

IT IS HELD THAT the claimant failed to report to a local employment office when properly directed to do so within the meaning of Md. Code Ann., Labor & Emp. Article, Section 8-902. Benefits are denied from the week beginning September 9, 2012 through the week ending October 20, 2012

The Hearing Examiner's decision is affirmed.



Donna Watts-Lamont, Chairperson



Clayton A. Mitchell, Sr., Associate Member

VD

Copies mailed to:

FRANCIS GALE

SUSAN BASS DLLR

Susan Bass, Office of the Assistant Secretary

UNEMPLOYMENT INSURANCE APPEALS DECISION

FRANCIS GALE

SSN #

vs.

Claimant

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: 1235370

Appellant: Claimant

Local Office : 64 / BALTOMETRO
CALL CENTER

November 09, 2012

For the Claimant: PRESENT

For the Employer:

For the Agency: DANIEL LEWIS

ISSUE(S)

Whether the claimant has met the reporting requirements established by the Secretary to continue to qualify for unemployment insurance benefits within the meaning of MD. Code Annotated, Labor and Employment Article, Title 8, Section 902..

FINDINGS OF FACT

The claimant, Francis Gale, filed for unemployment insurance benefits establishing a benefit year effective August 21, 2011 with a weekly benefit amount of \$130.00.

She filed for extended benefits effective February 19, 2012.

The claimant was scheduled to attend a meeting regarding skill assessment and reemployment services with the Maryland Department of Labor on or about September 13, 2012. The claimant forgot about this meeting and therefore did not attend the meeting. The claimant rescheduled and attended this meeting on October 15, 2012.

CONCLUSIONS OF LAW

Md. Code Ann., Labor & Emp. Article, Section 8-902 provides that in order for a claimant to be eligible for benefits, the claimant must (1) register for work at an employment office; and (2) report to the employment office as directed. Section 8-902(b) states that these requirements may be waived where "... the Secretary finds that compliance with these requirements would be oppressive or inconsistent with the purposes of this title."

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 claimant failed to appear for a mandatory meeting on September 13, 2012 because she forgot about the meeting. The claimant rescheduled and attended the meeting on October 15, 2012. The Examiner finds that the claimant's failure to attend the meeting was not for good cause. Therefore, a disqualification is appropriate. However, she did reschedule and attend the meeting, so the penalty is lifted with the week beginning October 21, 2012.

DECISION

IT IS HELD THAT the claimant failed to report to a local employment office when properly directed to do so within the meaning of Md. Code Ann., Labor & Emp. Article, Section 8-902. Benefits are denied from the week beginning September 9, 2012 through the week ending October 20, 2012.

The determination of the Claims Specialist is modified.



B F Sapp, 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 November 26, 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 : October 31,2012
CH/Specialist ID: RBA3M
Seq No: 002
Copies mailed on November 09, 2012 to:
FRANCIS GALE
LOCAL OFFICE #64
SUSAN BASS DLLR