

- DECISION -

Claimant:
JONATHAN W COBURN

Decision No.: 2148-BR-14

Date: August 04, 2014

Appeal No.: 1404176

S.S. No.:

Employer:

L.O. No.: 63

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: September 03, 2014

REVIEW OF THE RECORD

After a review of the record, the Board adopts the hearing examiner's findings of fact. The Board makes the following additional findings of fact:

The claimant attended an Early Intervention (EI) Orientation Workshop on March 25, 2014 (*See Agency Exhibit B1*). The claimant made a diligent attempt to comply with the Agency's requirement. This fulfilled his obligation.

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 09.32.06.02(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. Through no fault of his own, he did not receive the notification until after the scheduled class had occurred. The claimant made multiple attempts, over the course of several weeks, to contact someone at the Agency to reschedule this but was unsuccessful in speaking to any person for quite some time. He ultimately was able to schedule participation and did attend, and successfully complete, the EI Orientation on March 25, 2014. The penalty should have been lifted at that time, but it was not.

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, as of March 25, 2014, the claimant has met the reporting requirements within the meaning of Md. Code Ann., Labor & Emp. Article, §8-902. The decision shall be reversed for the reasons stated herein.

DECISION

It is held that the Claimant has met the reporting requirements within the meaning of the Md. Code Ann., Labor & Emp. Article, Section 8.902. Benefits are allowed from the week beginning January 12, 2014.

The Hearing Examiner's decision is reversed.



Donna Watts-Lamont, Chairperson



Clayton A. Mitchell, Sr., Associate Member

KJK

Copies mailed to:

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