



STATE OF MARYLAND  
HARRY HUGHES  
Governor

RUTH MASSINGA  
Secretary

# DEPARTMENT OF HUMAN RESOURCES

EMPLOYMENT SECURITY ADMINISTRATION  
1100 North Eutaw Street  
Baltimore, Maryland 21201  
Telephone: 383-5032

BOARD OF APPEALS  
THOMAS W. KEECH  
Chairman  
HAZEL A. WARNICK  
MAURICE E. DILL  
Associate Members  
SEVERN E. LANIER  
Appeals Counsel

## —DECISION—

	DECISION NO.:	589-BR-83
	DATE:	May 4, 1983
CLAIMANT: Wayne G. Anderson	APPEAL NO.:	AB-53 & FSC-150
	S.S.NO.:	---
EMPLOYER:	LO. NO.:	5
	APPELLANT:	CLAIMANT

ISSUE Whether the Claimant failed, without good cause, to accept available , suitable work within the meaning of § 6 (d) of the Law; and whether the Claimant is eligible for Federal Supplemental Compensation within the meaning of § 21(k) of the Law.

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### NOTICE OF RIGHT OF APPEAL TO COURT

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

THE PERIOD FOR FILING AN APPEAL EXPIRES AT MIDNIGHT *June 3, 1983*

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### — APPEARANCE —

FOR THE CLAIMANT:

FOR THE EMPLOYER:

### REVIEW ON THE RECORD

The Board of Appeals hereby consolidates Case No. AB-53 and Case No. FSC-150; both cases involve the same Claimant and the same factual situation.

The Board of Appeals disagrees with the conclusions of law of the Appeals Referee and reverses both decisions. The job that the Claimant was referred to was not "suitable" within the meaning of § 6(d) of the Law. Although it was only ten miles from the Claimant's home, the Claimant lacked public and private transportation to get there. Even assuming that the Claimant could have taken a bus to within two miles of the job, as alluded to by the agency's witness, the two mile distance that he would have had to walk was over mountainous terrain. Although the Board notes that this Claimant has been unemployed a long time and should make every effort to obtain employment, even if it involves walking, it cannot conclude that the job referral in question here was suitable within the meaning of § 6(d) of the Law.

With regard to the Claimant's disqualification under § 21(k) (Case No. FSC-150), that section defines "suitable" to mean, among other things:

(v) The work is suitable under the provisions of § 6(d) to the extent that such provisions are not inconsistent with the provisions of paragraphs (2)(i) through (iv) of this subsection.

Therefore the Board concludes that this job referral was not suitable within the meaning of § 21(k) of the Law.

DECISION

The Claimant did not fail without good cause, to accept available, suitable work, within the meaning of § 6(d) of the Maryland Unemployment Insurance Law. He is eligible for benefits for the week beginning October 17, 1982 and thereafter.

The Claimant is eligible for Federal Supplemental Compensation Benefits within the meaning of § 21(k) of the Maryland Unemployment Insurance Law.

The decision of the Appeals Referee is reversed.

  
Associate Member

  
Chairman

COPIES MAILED TO:

CLAIMANT

The Legal Aid Bureau, Inc.

UNEMPLOYMENT INSURANCE - FREDERICK



DEPARTMENT OF HUMAN RESOURCES  
 EMPLOYMENT SECURITY ADMINISTRATION  
 1100 NORTH EUTAW STREET  
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 Secretary

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 Associate Members  
 SEVERN E. LANIER  
 Appeals Counsel  
 MARK R. WOLF  
 Administrative  
 Hearings Examiner

- DECISION -

CLAIMANT: Wayne C. Anderson  
 DATE: Jan. 17, 1983  
 APPEAL NO.: FSC-150  
 S. S. NO.:  
 EMPLOYER:  
 L. O. NO.: 5  
 APPELLANT: Claimant

ISSUE: Whether the claimant is eligible for Federal Supplemental Compensation within the meaning of Section 21(k) of the Law.

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 EMPLOYMENT SECURITY OFFICE, OR WITH THE APPEALS DIVISION, ROOM 515, 1100 NORTH EUTAW STREET, BALTIMORE, MARYLAND 21201, EITHER PERSON OR BY MAIL.

THE PERIOD FOR FILING A PETITION FOR REVIEW EXPIRES AT MIDNIGHT ON February 1, 1983

- APPEARANCES -

FOR THE CLAIMANT: Wayne C. Anderson - Claimant  
 Leah J. Bartgis, Staff Attorney,  
 Legal Aid Bureau, Incorporated  
 FOR THE EMPLOYER:

FINDINGS OF FACT

The claimant filed an original claim for benefits effective January 28, 1982, at which time he was monetarily qualified as eligible for \$104.00 in weekly benefits. The claimant filed for Federal Supplemental Compensation Benefits when the program was instituted in October, 1982. On October 22, 1982, the claimant was referred to suitable employment with Tom Benneck of Middletown, Maryland with wages of \$4.00 per hour, performing duties of flagging and guard rail installation. The claimant

refused the referral due to lack of transportation. The claimant does not have a driver's license. Middletown, Maryland is located approximately seven to ten miles from Frederick, Maryland. The claimant did have experience as a laborer in the construction industry.

CONCLUSIONS OF LAW

Within the meaning of Section 21(k) of the Maryland Unemployment Insurance Law, an individual shall be disqualified from receiving Federal Supplemental Compensation if he fails to accept any offer of suitable work or fails to apply for any suitable work to which he has been referred by the Executive Director. Work is suitable if it is within the individual's capabilities, the gross average weekly wage paid for the work exceeds the sum of the weekly benefit amount plus any Supplemental Benefits and the wages are equal to or greater than the minimum wage. Also, that the work is listed with the Maryland State Employment Service or is offered in writing and the individual does not have prospects of obtaining work in his customary occupation. The Appeals Referee feels that the claimant's job referral meets the aforementioned tests. It is for this reason, the determination of the Claims Examiner must be affirmed.

DECISION

The claimant is not eligible for Federal Supplemental Compensation Benefits within the meaning of Section 21(k) of the Maryland Unemployment Insurance Law. He is disqualified from receiving benefits for the week beginning October 17, 1982 and until he has been employed during at least four weeks and has earned four times his weekly benefit amount (\$4161).

The determination of the Claims Examiner is affirmed.



Gerald E. Askin  
APPEALS REFEREE

DATE OF HEARING: December 3, 1982

ras

(702 -- Krantz)

copies mailed to:

Claimant  
Unemployment Insurance - Frederick

The Legal Aid Bureau, Inc.

ATTN: Leah J. Bartgis, Staff Attorney



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Administrative  
Hearings Examiner**

**- DECISION -**

CLAIMANT: Wayne C. Anderson  
DATE: Jan. 17, 1983  
APPEAL NO: AB-53  
S. S. NO.:  
EMPLOYER:  
L.O.NO.: 5  
APPELLANT: Claimant

ISSUE: Whether the claimant failed, without good cause, to accept available, suitable work within the meaning of Section 6(d) of the Law.

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THE PERIOD FOR FILING A PETITION FOR REVIEW EXPIRES AT MIDNIGHT ON February 1, 1983

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**- APPEARANCES -**

FOR THE CLAIMANT:

Wayne C. Anderson - Claimant  
Leah J. Bartgis - Staff Attorney,  
Legal Aid Bureau, Incorporated

FOR THE EMPLOYER:

OTHER: EMPLOYMENT SECURITY ADMINISTRATION  
Shirley Krantz - Claims Specialist II

**FINDINGS OF FACT**

The claimant filed an original claim for benefits effective January 28, 1982. He had last worked for a contractor on September 15, 1982. The claimant filed for Additional Benefits under the State of Maryland's Additional Benefit Program, and on October 22, 1982, the claimant was referred to suitable employment with Tom Benneck of Middletown, Maryland. His wages

were to be \$4.00 per hour and his duties were that of flagging and guard rail installation. The claimant refused the referral because he had no transportation. Middletown, Maryland is located seven to ten miles from the claimant's home in Frederick, Maryland.

CONCLUSIONS OF LAW

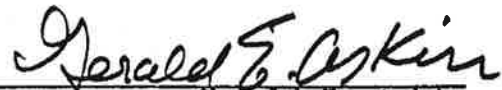
The non-monetary determination of the Claims Examiner that the claimant failed, without good cause, to accept or apply for available, suitable work within the meaning of Section 6(d) of the Maryland Unemployment Insurance Law, is supported by the testimony and the evidence. The Appeals Referee does not feel that a referral to suitable work seven to ten miles from the claimant's residence is good cause for refusal. Transportation has always been considered the obligation of the claimant to get to and from the place of employment. If the place of employment had been a substantially greater distance from the claimant's home in Frederick, the decision may have been otherwise.

The offered wage of \$4.00 per hour exceeds the claimant's weekly benefit amount and the claimant did have experience as a laborer in the construction industry. It is for this reason, the determination of the Claims Examiner must be affirmed.

DECISION

The claimant failed, without good cause, to accept available, suitable work within the meaning of Section 6(d) of the Maryland Unemployment Insurance Law. He is disqualified from receiving benefits for the week beginning October 17, 1982 and the nine weeks immediately following.

The determination of the Claims Examiner is affirmed.



Gerald E. Askin  
APPEALS REFEREE

DATE OF HEARING: December 3, 1982  
ras  
(7021 -- Krantz)



copies mailed to:

Claimant  
Unemployment Insurance - Frederick

The Legal Aid Bureau, Inc.  
Midwestern Maryland Office

ATTN: Leah J. Bartgis, Staff Attorney