

 **Maryland**
Department of Economic &
Employment Development

William Donald Schaefer, Governor
J. Randall Evans, Secretary

Board of Appeals
1100 North Eutaw Street
Baltimore, Maryland 21201
Telephone: (301) 333-5032

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

— DECISION —

Decision No.:	117-BR-92
Date:	January 17, 1992
Claimant: Jon P. Weeks	Appeal No.: 9116586
	S. S. No.:
Employer:	L. O. No.: 33
	Appellant: CLAIMANT
Issue:	Whether the claimant filed proper claims for benefits within the meaning of Section 8-901 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

February 16, 1992

— APPEARANCES —

FOR THE CLAIMANT:

FOR THE EMPLOYER:

REVIEW ON THE RECORD

Upon review of the record in this case, the Board of Appeals modifies the decision of the Hearing Examiner with respect to the claimant's eligibility for benefits for the week ending February 23, 1991.

The claimant submitted a form for the weeks ending February 16 and February 23, 1991 on February 23, 1991. He indicated on the card that he had worked the week ending February 16, 1991 and earned over his weekly benefit amount. The card itself instructed him to file it on February 23, 1991. He filed it on that date.

Later, when the claimant received no response, he called the local office and was told to wait for claim forms in the mail. Later, when they did not come in the mail, he called again on March 17, and was told to come in.

The claimant is not disqualified for the week ending February 23, 1991. He followed the specific directions on his claim card. Specific directions given to a claimant on his particular case override any contrary general instructions in the pamphlet. Since the claimant followed the specific instructions in his case, he cannot be penalized for doing this.

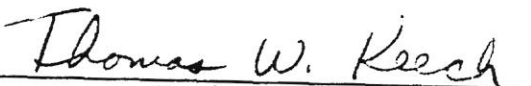
This same reasoning might apply also to the claims for the weeks ending March 2, 9 and 16, 1991. The claimant's evidence regarding these weeks, however, was vague, and the claimant did not finally visit the office about these claims until July of 1991. For these reasons, he will remain disqualified for these weeks.

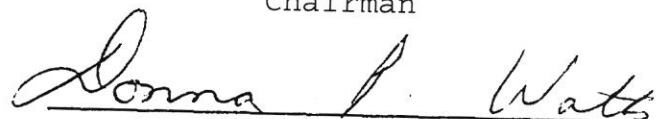
DECISION

The claimant filed a timely and valid claim for the week ending February 23, 1991 within the meaning of Section 8-901 of the Labor and Employment Article.

The claimant failed to file timely claims for benefits within the meaning of Section 8-901 of the Labor and Employment Article. He is disqualified for the weeks ending March 2, 9 and 16, 1991.

The decision of the Hearing Examiner is modified.


Chairman


Associate Member

K:D

kmb

COPIES MAILED TO:

CLAIMANT

UNEMPLOYMENT INSURANCE - PRINCE FREDERICK

 **Maryland**
Department of Economic &
Employment Development

William Donald Schaefer, Governor
J. Randall Evans, Secretary

William R. Merriman, Chief Hearing Examiner
Louis Wm. Steinwedel, Deputy Hearing Examiner

1100 North Eutaw Street
Baltimore, Maryland 21201

Telephone: 333-5040

— DECISION —

	Date:	Mailed:	10/21/91
Claimant: Jon P. Weeks	Appeal No.:	9116586	
	S. S. No.:		
Employer:	L.O. No.:	33	
	Appellant:	Claimant	

Issue: Whether the claimant failed to file proper claims for benefits within the meaning of MD Code, Labor and Employment Article, Title 8, Section 901.

— 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 APPEALS DIVISION, ROOM 515, 1100 NORTH EUTAW STREET, BALTIMORE, MARYLAND 21201, EITHER IN PERSON OR BY MAIL.

THE PERIOD FOR FILING A PETITION FOR REVIEW EXPIRES AT MIDNIGHT ON

November 5, 1991

— APPEARANCES —

FOR THE CLAIMANT:

FOR THE EMPLOYER.

Claimant - Present

FINDINGS OF FACT

The claimant filed a claim for unemployment insurance benefits, effective November 11, 1990. The claimant had been employed at A Surveys, Inc. from August of 1987 to November 1, 1990 as a civil engineer. When the claimant filed his claim in November of 1990, the claimant was given a pamphlet called "What You Should Know About Unemployment Insurance In Maryland."

The claimant, on February 16, 1991 earned \$375.50. The claimant's weekly benefit amount was determined to be \$215. The pamphlet given to the claimant called "What You Should Know About Unemployment Insurance In Maryland" informed the claimant that if he earned wages greater than his weekly benefit amount, that the claimant must report in person to his local office immediately in order to begin receiving benefits again. However, although the claimant earned wages over his benefit amount for the week ending February 16, 1991, the claimant did not report immediately, in person, to his local office. The claimant submitted a claim for the week ending February 23, 1991 to the State of Maryland on February 23, 1991. In March of 1991, the claimant telephoned the local office in Prince Frederick, Maryland; the claimant was advised that he must report in person to continue to file claims. The claimant submitted claims for the weeks ending March 2, 9, 16 and 23, 1991 when he was at the local office on July 24, 1991.

CONCLUSIONS OF LAW

The Code of Maryland, Labor and Employment Article, Title 8, Section 901, provides that an unemployed individual is eligible to receive benefits only if it is established that he/she has filed claims in accordance with relevant provisions of the Code of Maryland Regulations (COMAR).

COMAR at Title 24.02.02.04 B provides, in essence, that upon filing an initial or reopened claim a claimant "shall file continued claims by mailing the prescribed forms on the Sunday immediately following the close of the week or weeks for which benefits are claimed. If the claimant does not receive a claim form through the mail, the claimant shall report to the local office within one week of the date on which the (claim certification) form is required to be filed.

Further, COMAR at Title 24.02.02.04B provides that to be valid a claim certification form must be "completed and correct." An incomplete or incorrect claim certification form shall be returned to the claimant for completion or correction and may not be considered "received" until such time as it is complete and correct.

The above-cited portions of the Law and COMAR are specific in their provisions and claims must be filed in accordance with these provisions if benefits are to be paid for the claim period at issue.

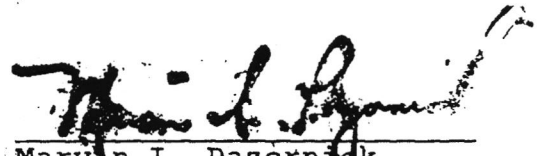
For the week ending February 16, 1991, the claimant earned \$375.50. The claimant failed to report in person to file the claim for the week ending February 23, 1991. Since the claimant did not report in person to file-the" claim for the week ending February 23, 1991, it will be held that the claimant did not file

a proper claim for the claim week ending February 23, 1991, under the Maryland Code, Labor and Employment Article, Title 8, Section 901. Further, the claimant submitted claims for the weeks ending March 2, 9, 16 and 23, 1991 when he was at the local office on July 24, 1991. It will be held that the claimant did not file proper claims for the weeks ending March 2 through March 23, 1991 under the Maryland Code, Labor and Employment Article, Title 8, Section 901.

DECISION

The claimant did not file proper claims for the week ending February 23, 1991, March 2, 9, 16 and 23, 1991 under the Maryland Code, Labor and Employment Article, Title 8, Section 901. Benefits are denied from February 17, 1991 to March 23, 1991.

The determination of the Claims Examiner is affirmed.



Marvin I. Pazornick
Hearing Examiner

Date of Hearing: 10/16/91
alma/Specialist ID: 33604
Cassette No.: 10,198A
Copies mailed on 10/21/91 to:

Claimant
Unemployment Insurance - Prince Frederick (MABS)