

 **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

— D E C I S I O N —

	Decision No.:	1470-BR-92
	Date:	August 25, 1992
Claimant: Eduardo Nagy	Appeal No.:	92-UCX-74
	S. S. No.:	-
Employer:	L. O. No.:	43
	Appellant:	CLAIMANT
Issue:	Whether the claimant failed to file 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

September 24, 1992

— A P P E A R A N C E S —

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. This decision affects only the disqualification for failure to fill proper claims.

The claimant was physically present in the office and attempting to file a claim on March 16, 1992 (effective March 15, 1992). Due to an error on the part of the claimant's employer, a necessary form, the DD214, was not available. The claimant received it on March 28 and brought it to the office shortly thereafter.

The Board concludes that the claimant did file proper claims for the week beginning March 15, 1992. A claimant cannot be held responsible for the employer's failure to provide a required document.

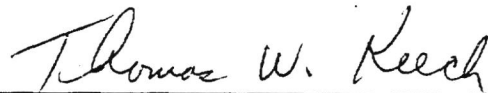
This decision, however, has no effect on the claimant's penalty for not actively seeking work, a penalty which is not before the Board at this time.

DECISION

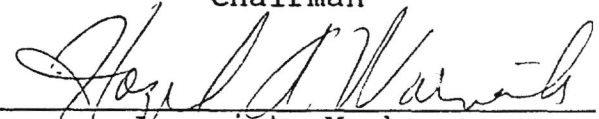
The claimant filed timely claims for benefits. He is not disqualified from receiving benefits within the meaning of Section 8-901 of the Labor and Employment Article for the week beginning March 15, 1992 or the following week.

The decision of the Hearing Examiner is reversed.

This decision has no effect on the claimant's other penalty for not actively seeking work.



Chairman



Associate Member

K:H

kmb

COPIES MAILED TO:

CLAIMANT

EMPLOYER

UNEMPLOYMENT INSURANCE - WHEATON

 **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
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Telephone: (410) 333-5040

— DECISION —

Claimant:	Eduardo Nagy	Date:	Mailed: 06/02/92
		Appeal No.:	92-UCX-74
		S. S. No.:	
Employer:		L.O. No.:	043
		Appellant:	CLAIMANT

Issue: Whether the claimant failed to file proper claims for benefits within the meaning of the Code of MD, 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 BOARD OF APPEALS, ROOM 515, 1100 NORTH EUTAW STREET, BALTIMORE. MARYLAND 21201. EITHER IN PERSON OR BY MAIL

June 17, 1992

THE PERIOD FOR FILING A PETITION FOR REVIEW EXPIRES ON

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

— APPEARANCES —

FOR THE CLAIMANT:

Eduardo Nagy - Present

FOR THE EMPLOYER:

Local Office Representative: Janet Wisniewski, Claims Specialist

FINDINGS OF FACT

The claimant was honorably discharged from the United States Marine Corp and filed a claim for unemployment compensation,

on April 9, 1992, but effective, March 15, 1992. However, at the effective date of filing the claimant did not have the necessary certificate for discharge from active duty. In most instances, claimants discharged from the military receive the certificate on the date of discharge for presentation to the local unemployment office in filing a claim. The claimant received his DD214 Form on March 28, 1992, which was after the time of filing the claim. The claimant's commanding officer, H. J. Tirade, certified by letter as April 13, 1992, that due to unforeseen events and through no fault of the claimant, he was unable to pick up his certification when he was separated from active duty on March 3, 1992. Therefore, when the claimant filed for benefits, he did not meet the necessary qualifications.

On April 9, 1992, the claimant filed out claim form in the local office. A back dated claim was established the weeks ending March 21 and 28, 1992. The claimant requested that he be allowed back benefits because he was unaware of the eligibility requirements and was misinformed by his employer regarding legal qualifications for unemployment eligibility. When the claimant filled out a claim form dated April 9, 1992, the claimant failed to indicate on the form any job search for two weeks.

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 re-opened 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 24.02.04B 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.

The Code of Maryland, Labor and Employment Article, Title 8, Section 901 provides that a claimant must file timely claims in order to be eligible for benefits.

The Code of Maryland Regulations at Title 24.02.02.04B(4) provides that "claims shall be filed and received within 14 days of the week for which benefits are claimed in order to be timely, provided that the claimant is currently filing continued claims. Claims filed more than 2 weeks late shall be considered timely only if the Department's error caused the claimant not to receive the claim forms."

Further, "a claimant who fails to file a timely continuing claim shall report, in person, to the local office to file an initial or reopened claim to reactivate the claim."

A claim series begins with the first day of the calendar week in which a unemployed individual reports and files a new or additional claim. The claim filed on April 9, 1992 for the weeks from March 15, 1992 to March 28, 1992 were not properly filed along with the required certification from the claimant's employer.

DECISION

It is held that the claimant failed to file proper claims for benefits within the meaning of the Code of Maryland, Labor and Employment Article, Title 8, Section 901.

The determination of the Claims Examiner is affirmed.

Carolyn White -KE
Carolyn White
Hearing Examiner

Date of Hearing: 05/20/92
kc/Specialist ID: 43734
(Cassette Attached to File)

Copies mailed on 06/02/92 to:

Claimant
Unemployment Insurance - Wheaton (MABS)