

# Maryland

DEPARTMENT OF ECONOMIC AND EMPLOYMENT DEVELOPMENT

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William Donald Schaefer, Governor  
J. Randall Evans, Secretary

**BOARD OF APPEALS**

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

**— DECISION —**

	Decision No.:	252-BH-89
	Date:	April 5, 1989
Claimant: Rene Swafford	Appeal No.:	88-UCF-204
	S. S. No.:	
Employer: U.S. Postal Service	L. O. No.:	8
	Rm. 300 Appellant:	CLAIMANT

Issue: Whether the claimant was able to work, available for work and actively seeking work within the meaning of Section 4(c) of the law.

**—NOTICE OF RIGHT OF APPEAL TO COURT —**

YOU MAY FILE AN APPEAL FROM THIS DECISION IN ACCORDANCE WITH THE LAWS OF MARYLAND. THE APPEAL MAYBE 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.

May 5, 1989

THE PERIOD FOR FILING AN APPEAL EXPIRES AT MIDNIGHT ON

**— APPEARANCES —**

FOR THE CLAIMANT:

Rene Swafford - Claimant  
Ana Zigel - Attorney

John T. McGucken, Legal Counsel - D.E.E.D.

FOR THE EMPLOYER:

Deborah King - Comp.  
Services Spec.

## EVALUATION OF EVIDENCE

The Board of Appeals has considered all of the evidence presented, including the testimony offered at the hearings. The Board has also considered all of the documentary evidence introduced in this case, as well as the Department of Economic and Employment Development's documents in the appeal file.

The evidence in the record includes three different documents, all from the claimant's physician, regarding the claimant's ability to work. The most recent letter, submitted at the hearing before the Board of Appeals, has been admitted into evidence (Exhibit B-1). The Board notes, however, that this exhibit does not really add any new evidence to the case. While the Board has given weight to the physician's medical diagnosis, the Board does not attach significant weight to the physician's assessment regarding desk jobs and whether those type of jobs would be consistent with the claimant's medical condition.

At the hearing before the Board, the claimant's testimony regarding all the physician's notes was vague and inconsistent. She admitted that she visited her physician in July to obtain a medical note because it had been requested by her employer. When she went to her doctor, the doctor actually told her to go home, elevate her feet and to continue elevating her feet at least an hour or two every day throughout the course of the day. The claimant presented no evidence of jobs in her job classification that she could perform given the limitations placed on her by her physician. She also admitted that the employer did offer her some light duty on July 27, 1988 but she was unable to do the light duty offered by the employer.

## FINDINGS OF FACT

The claimant was employed by the United States Postal Service for approximately three and one-half years, until on or about July 27, 1988, when she went on a leave without pay due to the fact that she was pregnant and was experiencing certain medical complications. The claimant was employed as a letter carrier.

On or about July 27, 1988, the claimant visited her physician. At that time, in a written note, the physician severely restricted the claimant's ability to do light duty work, requiring no heavy lifting or standing for extended periods of time. In addition, the physician told her to elevate her feet an hour or two every day. The claimant brought the