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

**— DECISION —**

	Decision No.:	637-BR-91	
	Date:	May 31, 1991	
Claimant:	Kathleen H. Shepard	Appeal No.:	9107115
		S. S. No.:	
Employer:		L. O. No.:	20
		Appellant:	CLAIMANT
Issue:	Whether the claimant was able, available and actively seeking work within the meaning of Section 4(c) of the law.		

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**— 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.

THE PERIOD FOR FILING AN APPEAL EXPIRES AT MIDNIGHT ON June 30, 1991

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**— APPEARANCES —**

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.

The claimant received a determination in the mail which stated that she hadn't provided any medical documentation of the extent of her "disability/handicap" (pregnancy). The determination disqualified her from October 21, 1990 "until meeting the requirements of the Law." The last date to appeal that decision was given as November 30, 1990.

The claimant responded by getting a form filled out by her doctor, who returned the form to the agency on November 30, 1990. On the form, the doctor stated that the claimant was pregnant but was not disabled at any time from working. The claimant later contacted the local office to inquire about her claim, and she was told that she would have to file an appeal. When she did, it was twelve days late.

It is not clear that the claimant ever even meant to file an appeal, or needed to file an appeal. The determination simply disqualified her "until meeting the requirements of the Law." It is unclear what this means,<sup>1</sup> but the claimant interpreted it as meaning that the penalty would be lifted if she provided a doctor's note.

The claimant's interpretation was reasonable. From the text of the determination, it is impossible to tell how the penalty can be eliminated, but it did prominently mention a doctor's note; the claimant's belief that she had eliminated the stated reason for the penalty, and thus had "met the requirements of the Law" without filing an appeal, was reasonable.<sup>2</sup>

Since the claimant reasonably believed, in reliance on the information sent her, she had nullified the penalty, she had good cause under Section 7(c)(3) for filing her appeal twelve days later.

On the merits, the claimant has shown clearly that she was able to work within the meaning of Section 4(c) of the law. In fact, she did work at a temporary agency much of the time. No penalty is appropriate under that section of the law based on the ability to work.

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<sup>1</sup> This determination possibly violated the new agency regulations, which require that the determination explain "what the claimant must do to requalify for benefits or purge the disqualification." COMAR 24.02.02.16F(d).

<sup>2</sup> This belief was not only reasonable -- it was correct. The claimant did not have to file an appeal to lift the penalty. Since she did eventually file an appeal, however, the Board must rule on it.