



*William Donald Schaefer, Governor
Mark L. Wasserman, Secretary*

*Board of Appeals
1100 North Eutaw Street
Baltimore, Maryland 21201
Telephone: (410) 333-5032*

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

— DECISION —

	Decision No.:	1132-BR-92
	Date:	July 15, 1992
Claimant:	Robert X. Mallett, III	Appeal No.: 9206919
	S. S. No.:	
Employer:	L. O. No.:	1
	Appellant:	CLAIMANT

Issue: Whether the claimant was able, available and actively seeking work, within the meaning of Section 8-903 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 August 14, 1992

— APPEARANCES —

FOR THE CLAIMANT:

FOR THE EMPLOYER:
REVIEW ON THE RECORD

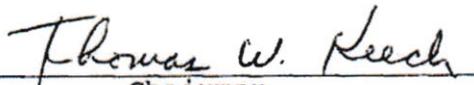
Upon review of the record in this case, the Board of Appeals reverses the decision of the Hearing Examiner.

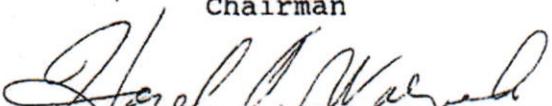
The Board adopts the findings of fact of the Hearing Examiner. Based on these facts, the Board concludes that the claimant is available for work. The claimant was taking three college courses, and he worked out an arrangement with each professor so that the course could be worked around any work schedule. Since the claimant's part-time classes have been arranged to be flexible enough to change to accommodate any work schedule, there is no reason to disqualify the claimant under availability.

DECISION

The claimant is not available for work within the meaning of Section 8-903 of the Labor and Employment Article. No disqualification is imposed based on the claimant's attendance at three college courses in the spring semester of 1992.

The decision of the Hearing Examiner is reversed.


Chairman


Associate Member

K:H

kmb

COPIES MAILED TO:

CLAIMANT

UNEMPLOYMENT INSURANCE - BALTIMORE

 **Maryland**
Department of Economic &
Employment Development

William Donald Schaefer, Governor
Mark W. Wasserman, Secretary

Gary W. Wiedel, Administrator
Wm. Steinwedel, Chief Hearing Examiner

Room 511
1100 North Eutaw Street
Baltimore, Maryland 21201

Telephone: (410) 333-5040

— DECISION —

	Date:	April 28, 1992
Claimant:	Robert X. Mallett. III	Appeal No.: 9206919
	S. S. No.:	
Employer:	L.O. NO.:	1
	Appellant:	Claimant

Issue: Whether the claimant was able, available and actively seeking work under the MD Code, Labor and Employment Article, Title 8, Section 903.

— 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

May 13, 1992

THE PERIOD FOR FILING A PETITION FOR REVIEW EXPIRES ON

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

— APPEARANCES —

FOR THE CLAIMANT:

FOR THE EMPLOYER:

Present

OTHER : DEPARTMENT OF ECONOMIC AND EMPLOYMENT DEVELOPMENT
Helen Sloan - Claims Specialist IV

FINDINGS OF FACT

The claimant has been a student at the University of Baltimore matriculating toward a degree in corporate communication since 1989.

The current semester which ends at the end of May, 1992 is one where the claimant is taking nine credits. He is considered a student at the school and twelve credits is a full-time student.

The claimant attends school Mondays and Thursdays from 6:30 p.m. to 8:30 p.m. He also attends school Tuesdays and Fridays from 11:00 a.m. to 12:20 p.m. He cannot change his courses. He is taking business values and ethics; communication technology and modern cities. He earlier gave a statement to the Unemployment Insurance Administration that he was interested in working the "graveyard" shift.

The claimant has been classified by the Job Service as a collection manager. He has also had recent experience as an emergency substitute teacher and has worked most recently for SSD which is a developmental program for disabled adults. In working for SSD he was a residential counselor working from midnight to 11:30 a.m.

While the claimant cannot change his studies time he has talked to each of his three professors and each have indicated that he would be allowed to work in independent study. Independent study means that he works outside the classroom. This is not the ideal situation but it is answer so that the claimant admittedly has investigated this alternative in order to become eligible for unemployment insurance benefits.

The claimant intends to continue with his studies since he is registered for six credits in the summer session of 1992 and has pre-registered for the fall session.

The claimant volunteers that he give priority to being a student. He also states that he has school work and research work in addition to class work in his collegiate studies.

CONCLUSIONS OF LAW

The claimant in this case has made an industrious effort to show the Hearing Examiner that he is available for full-time employment. He fails in this regard.

Clearly, the claimant is primarily a student regardless of the number of credit hours that he is taking and secondarily a worker. He places a high preference on his scholastic career. This is commendable. However, it interferes with his being available for work full-time without restrictions.

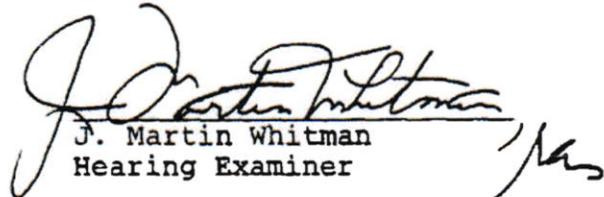
While the claimant may have carved out an agreement with three of his professors to allow him to do what he calls "independent study" he still has scholastic requirements which would impede and interfere with his looking for a full-time job and being available for full-time work. The criteria here is that he must be available for full-time work without restrictions to meet the requirements of Maryland Code, Labor and Employment Article, Title 8, Section 903. He is not available for full-time work.

The claimant has cleverly carved out an arrangement with his scholastic institution, but nevertheless, he is primarily a student and this does interfere with his availability for work and his active search for work. Consequent and unfortunately, he must be denied unemployment insurance benefits.

DECISION

The claimant is not available and actively seeking work without restrictions within the meaning of Maryland Code, Labor and Employment Article, Title 8, Section 903. Benefits are denied from the beginning of the benefit year, namely, March 8, 1992, and until the claimant is available and actively seeking work without restrictions.

The determination of the Claims Specialist is affirmed.


J. Martin Whitman
Hearing Examiner

Date of Hearing: April 22, 1992
ras\Specialist ID: 01027
Cassette in File

Copies mailed on April 28, 1992 to:

Claimant
Unemployment Insurance - Baltimore (MABS)