



STATE OF MARYLAND
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 Secretary

DEPARTMENT OF HUMAN RESOURCES

EMPLOYMENT SECURITY ADMINISTRATION
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BOARD OF APPEALS
 THOMAS W. KEECH
 Chairman
 HAZEL A. WARNICK
 MAURICE E. DILL
 Associate Members
 SEVERNE LANIER
 Appeals Counsel

-DECISION-

	DECISION NO.:	838-BR-83
	DATE:	July 12, 1983
CLAIMANT: Jay B. Salomon	APPEAL NO.:	FSC-278
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	S.S.NO.:	
EMPLOYER:	L.O. NO.:	43
	APPELLANT:	CLAIMANT & AGENCY
ISSUE	Whether the Claimant is eligible for Federal Supplemental Compensation benefits within the meaning of §21(j) 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 MAY BE TAKEN IN PERSON OR THROUGH AN ATTORNEY IN THE CIRCUIT COURT OF BALTIMORE CITY, OR THE CIRCUIT COURT OF THE COUNTY IN MARYLAND IN WHICH YOU RESIDE.

THE PERIOD FOR FILING AN APPEAL EXPIRES AT MIDNIGHT August 11, 1983

-APPEARANCE -

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 Appeals Referee.

First of all , the Board disagrees with the Referee's conclusion that the local office of the agency cannot impose a §21(j) penalty concerning more than one week, even though similar circumstances obtained in each of those weeks . Since §21(j) applies to the Claimant's search for work during each week, the Claimant's activities during any week can give rise to a penalty under §21(j) of the Law. If circumstances which give rise to a §21(j) penalty in one week are repeated in another week, a new penalty under §21(j) is certainly justified.

The Board disagrees, however, that a penalty under §21(j) of the Law was justified at all. In this case, the Claimant was clearly engaged in a systematic and sustained effort throughout the week to obtain work and he clearly provided tangible evidence of that effort . The Claimant simply did not fail to actively engage in seeking work within the meaning of §21(J) of the Law. The Appeals Referee's decision upholding the first disqualification of the Claimant under §21(j) will therefore be reversed.

The agency has filed a letter with the Board in this case in which it indicates that §4(c) of the Law does apply to Federal Supplemental Compensation claims. The agency points out, correctly, that 521(b) of the Maryland Unemployment Insurance Law makes applicable to claims for Federal Supplemental Compensation all other sections of the Maryland Unemployment Insurance Law which do not conflict with the Federal laws concerning Federal Supplemental Compensation. There is no conflict between §4(c) of the Maryland Unemployment Insurance and the Federal Supplemental Compensation laws. Therefore, §4(c) of the law does remain in effect concerning claimants for Federal Supplemental Compensation. Of course , concerning the "actively seeking work" provision of 54(c), that provision has clearly been superseded by §21(j). The "availability" section of §4(c) of the Law, however, is not in conflict with any part of §21 of the law or the federal law setting up the Federal Supplemental Compensation program. Therefore, this section of the law is still applicable according to §21(b).

The Claimant, therefore, could be penalized under §4(c) of the Law from the receipt of Federal Supplemental Compensation benefits for any week in which he was not available for work within the meaning of §4(c) of the Maryland Unemployment Insurance Law.

The difficult question which arises in this case, however, is whether or not the acceptance of part-time work constitutes unavailability for work within the meaning of §4(c) of the Law. The Board has ruled in the past that the acceptance of part-time work is encouraged and accommodated by the Maryland Unemployment