

STATE HEARING DECISION

ODHS 4005 (Rev. 9/94)

County FRANKLIN	District Hearings Section COLUMBUS	Assistance Group Name		Assistance Group Number
Place of Hearing FRANKLIN CO CSEA	Initial Hearing Date 11/02/1999	Rescheduled Postponed to	Rescheduled Postponed to	Rescheduled Postponed to

Appellant/Representative	Appellant Representation
	Local Agency Representation Kathleen Kuhley, Distribution Supervisor (Mahoning Co. CSEA)

Date Notice Mailed 12/30/1899	Date Received by Local Agency	Date Received by ODHS 10/04/1999	Date Appeal Summary Received	Date Scheduling Notice Mailed 10/27/1999
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Appeal Number(s)/Program(s) 9924150/IVD

Notice to Appellant

This is the official report of your hearing and is to inform you of the decision and order in your case. All papers and materials introduced at the hearing or otherwise filed in the proceeding make up the hearing record. The hearing record will be available for examination at the local agency during normal office hours.

If you believe the state hearing decision is wrong, you may request an administrative appeal by writing to: Ohio Department of Human Services, Office of Legal Services, 30 East Broad Street, 31st Floor, Columbus, Ohio 43266-0423 or FAX (614) 752-8298. Your request should include a copy of this hearing decision and an explanation of why you think it is wrong. The department will respond to your request quickly, so any information, arguments, or documents you want considered must be sent with your request. Your written request must be received by the Office of Legal Services within 15 calendar days from the date this decision is issued. ***(If the 15th day falls on a weekend or holiday this deadline is extended to the next work day.)***

During the 15th day administrative appeal period, you may request a free copy of the tape recording of the hearing by contacting the district hearings section.

If you want information on free legal services, but don't know the number of your local legal aid office, you can call the Ohio State Legal Services Association, toll free, at 1-800-589-5888, for the local number.

ISSUE:

1. Whether the agency's continued action to retain the current child support payments for reimbursement of public assistance benefits received is appropriate (924082).

FINDINGS OF FACT:

(Preliminary Findings)

1. Appellant submitted a State Hearing Request (ODHS 4069) on 09/20/99, to appeal the agency's action of retaining current child support payments received from the obligor through payroll deductions.

GRS

Appeal(s) SUSTAINED 9924150	Date Issue 01/27/2000	Compliance 9924150
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Distribution: Original to appellant, one copy to local agency; one copy to district Hearing section; one copy to district office; two copies to State Hearings. (Photocopy to appellant's authorized representative, if any, and to ODHS units as appropriate.)

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2. The hearing request was received by the local agency and the Bureau of State Hearings on 10/04/99, appeal number 924082 (IV-D) program assigned.
3. The hearing request was received by the Columbus District Hearing Office on 10/19/99, and scheduled for 11/02/99.
4. The hearing was held on 11/02/99, at Franklin County Child Support Enforcement Agency (FCCSEA) attended by the Appellant and representative from Mahoning County Child Support Enforcement Agency (MCCSEA), both participants were sworn in by the Hearing Officer.

(Undisputed Facts)

1. The Appellant initially applied for public assistance on 07/07/77, at the Mahoning County Department of Human Services (MCDHS).
2. The assistance group was composed of the Appellant and her infant child, birth date of 03/17/77.
3. Appellant signed the child support assignment form in 1977, at the time of the initial application assigning the rights to child support and arrearage to be made to the Ohio Department of Human Services.
4. The original Judgment Entry was filed 06/27/78, in the court of Mahoning County, Ohio for the child support order whereas the obligor (absent father) was ordered to pay \$29.42 every week in current child support with a 07/12/79, effective date of order.
5. Court Order Judgment Entry was filed in the court of Mahoning County, Ohio on 11/11/81, whereas an arrearage was established and at the time over \$858.00 was owed for public assistance.
6. The child in the assistance group is now 22 years old.
7. The Appellant is no longer a recipient of public assistance.
8. Mahoning County CSEA is currently still receiving Appellant's weekly child support income.

(Disputed Facts)

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1. The agency's position is that they cannot establish the arrearage for Appellant's case as no information can be found due to the age of the case. The agency, therefore, cannot establish the effective termination date of public assistance and the amount of child support money owed to the Appellant.

2. The Appellant alleges that she received public assistance from 1977 (when her child was 6 months old), for two years and that the public assistance was terminated during the ending part of 1979 or 1980, and followed by employment at Ameritech in 1981. The Appellant argues the agency not finding any information on file as to the date of termination for her public assistance case resulting in their action to continue taking \$60.00 a week out of the obligor's (absent parent's) paycheck since 1990, which now amounts to about \$7000.00 in money due to the Appellant. The Hearing Officer finds the Appellant to be credible and accepts as fact the date of termination of public assistance to be the ending part of 1979.

EXHIBITS:

None

CONCLUSIONS OF POLICY:

Applicable Policy

Ohio Administrative Code (OAC) Rule 5101:1-29-31 (Child Support Enforcement Manual (CSEM) Section 4320) Distribution and Disbursement of Child Support for Terminated Public Assistance Cases states:

(A) The effective date of ADC termination is the last day of the month that the ADC household receives its last ADC cash payment. Pursuant to PAM 3524.1, the IV-A unit is required to notify the IV-D unit of the ADC-cash payment terminations within 2 business days of the action.

(B) Upon the effective date of public assistance termination, the CSEA shall disburse current support to the obligee according to the support order so as to satisfy the current child support obligation to the fullest extent possible. No money collected pursuant to the support order for current support may be applied to support arrearages or unreimbursed assistance.

(C) Upon the effective date of public assistance termination, the CSEA shall determine the amount of

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unreimbursed public assistance and the amount of outstanding obligor arrearage as of the effective date of public assistance termination. The state shall retain assignment on the outstanding obligor arrearage in an amount not to exceed the unreimbursed public assistance.

(F) Collections on all current support and arrears owed to the obligee shall be disbursed to the obligee within 2 business days of receipt, in accordance with CSEM 5030, beginning the month after the month the assistance group receives its last ADC payment.

Analysis

The facts established at the hearing indicate the Appellant applied for public assistance on 07/07/77, for her and an infant child, at which time she assigned her rights to child support to the Ohio Department of Human Services as required. The facts further indicate the Appellant received public assistance for only two years, followed by the termination of the public assistance during the ending part of 1979. The CSEA, however, continues to receive current support payments from the obligor (for Appellant's child who is now 22 years old) which have not been disbursed to the obligee (Appellant).

The evidence presented indicates the agency has not been able to establish the effective date of termination of public assistance due to Appellant's case being an old case, and therefore, unable to determine any amount of support payments due the Appellant.

Given the Appellant is found to be credible and her testimony accepted as fact, the Hearing Officer finds that the effective date of public assistance termination is the ending part of 1979. The Hearing Officer further finds that the agency has not adhered to the cited regulation (CSEM 4320), and their continued action of retaining the current child support payments collected for reimbursement of public assistance benefits received is inappropriate.

HEARING OFFICER'S RECOMMENDATIONS:

It is recommended that appeal number 924082 is SUSTAINED.

It is recommended that the agency shall refer to CSEM 4320 as cited for the purpose of calculating the amounts of the collected child support owed to the Appellant and to the agency. The agency shall notify the Appellant in writing of the calculation for the owed child support with all appeal rights.

FINAL ADMINISTRATIVE DECISION AND ORDER:

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The Hearing Officer's recommendations are adopted.

Appeal number 924082 is Sustained.

Compliance Required.

O.A.C. 5101:6-7-03(B)(1)(a) requires compliance with decisions involving public assistance, social services or child support services, within fifteen calendar days from the date the decision is issued, but in no event later than ninety days from the date of the hearing request.

Date Issued: 01/27/2000