

STATE HEARING DECISION

ODHS 4005 (Rev. 9/94)

County CUYAHOGA	District Hearings Section CLEVELAND	Assistance Group Name		Assistance Group Number
Place of Hearing CUYAHOGA CDHS	Initial Hearing Date 01/22/2001	Rescheduled Postponed to	Rescheduled Postponed to	Rescheduled Postponed to

Appellant/Representative	Appellant Representation
	Local Agency Representation Celeste Bozeman, SSC

Date Notice Mailed 12/15/2000	Date Received by Local Agency	Date Received by ODHS 01/05/2001	Date Appeal Summary Received 01/22/2001	Date Scheduling Notice Mailed 01/12/2001
Appeal Number(s)/Program(s) 1000741/OWF, 1000742/FS				

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 maintained by the Ohio Department of Job and Family Services. If you would like a copy of the official record, please telephone the hearing supervisor at the CLEVELAND District hearing section at 1-800-686-1551.

If you believe this state hearing decision is wrong, you may request an administrative appeal by writing to: Ohio Department of Job and Family 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. 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 15-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:

Appeal #1000741:

Appellant completed a redetermination appointment on 10/25/00 at the Cuyahoga County Department of Job and Family Services (Agency). The Agency denied Ohio Works First benefits (OWF) based on income in excess of the OWF program standards. The issue on appeal is whether the Agency was correct to deny the 10/25/00 OWF application. The denial is not correct because the Agency has not supported by a preponderance of the evidence that the Appellant's income exceeds the OWF program standards.

Appeal #1000742:

Appellant completed a redetermination appointment on 10/25/00 at the Cuyahoga County Department of Job and Family Services (Agency). The Agency approved Food Stamp (FS) benefits in the amount

SLM

Appeal(s) SUSTAINED 1000741, 1000742	Date Issued 01/24/2001	Compliance 1000741, 1000742
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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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of \$80 effective 11/1/00. The issue on appeal is whether the approved FS allotment of \$80 effective 11/1/00, is correct. The approved FS allotment is not correct because the Agency has not supported by a preponderance of the evidence that the correct income was used in the FS budget when determining eligibility effective 11/1/00.

PROCEDURAL MATTERS:

Prior notice of adverse action was issued to the Appellant on 10/26/00 denying OWF and approving FS benefits of \$80 effective 11/1/00 based on Appellant's earned income. The Appellant disputes the Agency's determination and a state hearing request was received by the Bureau of State Hearings on 1/5/01. The request was received in the Cleveland District Office on 1/8/01. A hearing notice was issued to all parties on 1/12/01, and a state hearing was scheduled and heard on 1/22/01. An Appeal Summary was provided at the hearing. The actions have been taken due to the untimely appeal. Appellant represented herself at the state hearing; Agency was represented by a caseworker.

FINDINGS OF FACT:

Undisputed Facts:

1. This assistance group consists of the Appellant and her minor child.
2. Appellant completed a redetermination appointment on 10/25/00.
3. The Agency worker present at the appeal was not the worker of record who processed the 10/25/00 reapplication.
4. Appellant reported to the Agency that she was no longer employed as of 10/20/00.
5. The OWF and FS budgets for 11/1/00 and ongoing include earned income. The income was not removed from the budgets until 12/7/00.

Disputed Facts:

Appellant maintains she has not received the correct OWF and FS benefits. The Appellant's OWF and FS eligibility effective 11/1/00 was calculated based on earned income. This is not correct because the Appellant was no longer employed and reported the loss of employment to the Agency. Therefore, the Agency has not supported the Appellant's income exceeds the OWF eligibility standards and has not supported the approved FS allotment of \$80 effective 11/1/00, is correct.

CONCLUSIONS OF POLICY:

Policy:

1. Ohio Administrative Code (OAC) 5101:6-7-01(C)(1)(c) provides that the agency must show by a preponderance of the evidence that its proposed action(s) are in accordance with the rules.

OAC 5101:6-6-02 states:

"The agency representative presents and is the advocate for the agency's case at the hearing. This person shall explain the reasons for the agency's action, cite the regulations upon which the action

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was based, provide relevant case information and documents, and answer relevant questions for the individuals and the hearing officer..."

2. OAC Rule 5101:1-23-20 & 5101:4-4-31 (T) identifies the budget calculations and all allowable disregards for OWF and FS benefits.

Analysis:

Based on the findings of the case, the Agency used incorrect earned income when determining eligibility for OWF and FS benefits. Consequently, the Agency has not supported, by a preponderance of the evidence, that the Appellant's income exceeds the OWF eligibility standards or supported that the approved FS allotment of \$80 is correct.

HEARING OFFICER'S RECOMMENDATIONS:

Appeal #1000741 should be SUSTAINED. The Agency has not supported a denial of the 10/25/00 OWF application based on income in excess of the program standards. The Agency should redetermine eligibility from the 10/25/00 application date in accordance with OAC 5101:1-23-20, and issue corrective benefits. Agency is reminded to explore all applicable, allowable disregards. Appellant shall be notified in writing of said determination and afforded all appeal rights.

Appeal #1000742 should be SUSTAINED. The Agency has not supported the approval of the 10/25/00 FS application in the amount of \$80 is correct. The Agency should redetermine eligibility from the 10/25/00 application date in accordance with OAC 5101:4-4-31, and issued corrective benefits. Agency is reminded to explore all applicable, allowable disregards. Appellant shall be notified in writing of said determination and afforded all appeal rights.

FINAL ADMINISTRATIVE DECISION AND ORDER:

Finding the hearing officer's decision to be supported by the evidence, the recommendations above are adopted, and

Appeal #**1000741** and Appeal #**1000742** are **SUSTAINED**. **COMPLIANCE IS REQUIRED**
O.A.C. Section 5101: 6-7-03 requires prompt compliance with state hearing decisions. For decisions involving public assistance, compliance shall be achieved within 15 calendar days from the date the decision is issued, but in no event later than 90 calendar days from the date of the hearing request. For decisions involving food stamps, any increase in benefits must be reflected in the coupon allotment within ten calendar days of receipt of this decision, even if the local agency must provide a supplement. The local agency may take longer than ten days if it elects to make the decision effective in the assistance group's normal issuance cycle, provided that issuance will occur within 60 calendar days of the date of the hearing request. If the agency elects to follow this procedure, the benefit

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increase may be reflected in the normal issuance cycle or with a supplement. Compliance shall be promptly reported to the Bureau of State Hearings, ODHS, via "State Hearing Compliance," ODHS 4068, accompanied by appropriate documentation.

Ohio Administrative Code 5101:6-5-03 (E)(1) permits the dismissal of a hearing request when the district hearings section receives a written withdrawal of the hearing request signed by the individual or authorized representative.

EXHIBITS:

NONE

APPENDIX:

Appeal Summary and miscellaneous documents (67 pages)

Date Issued: 01/24/2001