

STATE HEARING DECISION

ODHS 4005 (Rev. 9/94)

County FRANKLIN	District Hearings Section COLUMBUS	Assistance Group Name		Assistance Group Number
Place of Hearing FRANKLIN CDHS	Initial Hearing Date 01/23/2001	Rescheduled Postponed to	Rescheduled Postponed to	Rescheduled Postponed to

Appellant/Representative	Appellant Representation
	Local Agency Representation Yemane Terfe, Total Case Manager

Date Notice Mailed 12/28/2000	Date Received by Local Agency	Date Received by ODHS 01/05/2001	Date Appeal Summary Received	Date Scheduling Notice Mailed 01/12/2001
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Appeal Number(s)/Program(s) 1000812/OWF, 1000817/MED
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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 COLUMBUS District hearing section at 1-800-686-1568.

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.

ISSUES SECTION:

1. In a notice mailed 12/21/00 to the Appellant, the Franklin County Department of Job & Family Services (herein known as the Agency) proposed to terminate Refugee Resettlement Program (RRP) Financial Assistance (RRP-FA, or also known as ADC-Q) due to excess income. Agency contends that the Appellant's monthly gross earned income of \$464 exceeds the \$223 ADC-Q maximum income for a household of one person. Agency's actions are based on OAC 5101:1-2-40(Z)(2). Appellant contends that she earns \$6.00 an hour but sometimes works less than 20 hours per week. The issue under appeal is whether the Agency's 12/21/00 notice to terminate OWF cash assistance is correct (Appeal 1000812)

Based on my analysis of the facts and policy, I find that the Agency's proposed termination is

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Appeal(s) OVERRULED 1000812 SUSTAINED 1000817	Date Issued 01/29/2001	Compliance 1000817
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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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correct. Her gross income as determined by the Agency is correct and is \$464. After subtracting the \$90 work disregard, the only applicable disregard, this reduces the Appellant's monthly income to \$374. The \$374 income exceeds the \$223 OWF payment standard for an assistance group size of one person. Therefore, the Appellant is no longer eligible for the RRP-FA cash grant.

2. In the same notice mailed 12/21/00 to the Appellant, the Agency proposed to terminate Refugee Resettlement Program (RRP) Medical Assistance (RRP-MA) due to excess income. Agency contends that the Appellant's monthly gross earned income of \$464 exceeds the eligibility requirements. Appellant contends that she earns \$6.00 an hour but sometimes works less than 20 hours per week. The issue under appeal is whether the Agency's 12/21/00 notice to terminate RRP-MA is correct (Appeal 1000817)

Based on my analysis of the facts and policy, I find that the Agency's proposed termination was not correct and relied on a misapplication of the rules. OAC 5101:21-2-40(AA)(5)(b) states that when a recipient of RRP-FA or RRP-MA becomes ineligible solely by reason of increased hours or income from employment, the recipient continues eligible for RRP-MA until the time-limited eligibility period for the individual has ended. Therefore, the Agency shall continue the medical coverage (RRP-MA) until the eight month time-limited eligibility expires, 3/31/01.

PROCEDURAL MATTERS

1. The Ohio Department of Job & Family Services' (ODJFS) Bureau of State Hearings received the state hearing request on 1/5/01.
2. The state hearing was conducted on Tuesday, January 23, 2001 at 1:30pm at the Franklin County Department of Job & Family Services' North Opportunity Office, 345 E. Fifth Avenue, Columbus, Ohio. The hearing was presided by Richard Collins, Hearing Officer II. The following persons testified under oath:

Appellant appeared and was represented by Aden Abu, an interpreter at St. Stephens Community House.

Franklin CDJFS was represented by Yemane Terfe, Total Case Manager, who testified on behalf of the assigned case manager.

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3. The Agency properly submitted an appeal summary.

FINDINGS OF FACT:

Undisputed Facts:

1. On 10/12/00, the Agency received verification that the Appellant, a Somalian native, had been granted refugee status. Appellant is a recipient of Refugee Resettlement Program (RRP) benefits including Financial Assistance (RRP-FA), and medical assistance (RRP-MA), and Food Stamps through the Franklin County Department of Job & Family Services (CDJFS).
2. Appellant began receiving the RRP-FA and RRP-MA benefits in 8/00. The eight month RRP program benefits expires 3/31/00.
3. Appellant lives alone and has no dependents.
4. On 12/21/00, Agency received the employment verification (534) form from AETNA Building Services. AETNA verified that her employment started on 9/5/00 and she works 30 hours a week at \$6.00 an hour. Agency determined her gross monthly income is \$464 and after subtracting the \$90 work disregard, her net income is \$374. Comparing the \$374 net income to the \$223 OWF eligibility standard for a one person AG, the Appellant's income exceeded eligibility requirements. Therefore, Agency mailed notice to terminate OWF cash and Medicaid.
5. Appellant provided a check stub dated 1/19/01 which shows that she worked 16 hours the week ending 1/3/01 and 20 hours the week ending 1/10/01 for a year to date (YTD) gross earnings of \$401 as of the month of January 2001.
6. Appellant's food stamps were reduced from \$103 to \$58 effective 1/31/01 due to the increased earned income.

Disputed Facts:

1. Agency contends the Appellant works 30 hours per week and earns an average gross income of \$464 per month. Appellant, through her interpreter, contends that she works 20 hours per week instead of 30 hours.

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I find that the Appellant works 20 hours per week. Although the Agency representative's testimony was that she works 30 hours per week, the Agency's determination of gross monthly income is based upon 36 hours every two weeks. The gross monthly income was determined by multiplying the 36 hours per week by \$6.00 = \$216. The \$216 x 2.15 (multiplying factor used for income received bi-weekly) = \$464. This income, and hours of employment are also verified by the pay stub the Appellant submitted into evidence at the state hearing (Exhibit 1).

CONCLUSIONS OF POLICY:

1. **Ohio Administrative Code (OAC) Rule 5101:6-7-01(C)** provides that the hearing officer's findings of fact shall be based exclusively on the evidence introduced at the hearing, or after the hearing and subject to examination and rebuttal by both parties. It shall be the responsibility of the agency to show, by a preponderance of the evidence, that its action or inaction was in accordance with ODHS Rules.

2. **OAC Rule 5101:1-2-40: The refugee resettlement program.** In relevant parts:
 - (A) An individual must provide proof, in the form of documentation issued by the immigration and naturalization service (INS), of one of the following statuses under the Immigration and Nationality Act (INA) as a condition of eligibility for RRP:
 - (1) Paroled as a refugee or asylee under section 212(d)(5) of the INA;
 - (2) Admitted as a refugee under section 207 of the INA;
 - (3) Granted asylum under section 208 of the INA;
 - (4) Admitted for permanent residence, provided the individual previously held one of the statuses identified above.
 - (5) Admitted with immigration status of an Amerasian.
 - (6) Cuban and Haitian entrants in accordance with Section 501(a), Public Law 96-422 94 Stat. 1810 (8 U.S.C. 1522 note) Executive Order 12341 (January 21, 1982).

 - (B) In establishing eligibility for assistance to a refugee, the county department of job and family services (CDJFS) shall determine whether the refugee is eligible for OWF or Medicaid. If the refugee meets all the requirements for OWF or Medicaid, the individual becomes a regular OWF participant or Medicaid recipient.

 - (H) RRP-FA and RRP-MA are available during the first eight months after the refugee enters the country. At the end of the first eight months, the individual loses eligibility for both programs forever.

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(2) If the refugee is from any country other than Cuba or Haiti, or meets the criteria set forth in paragraph (G)(H)(3) of this rule, the time-limited eligibility for assistance begins with the first month that the individual enters the United States: (a) A non-Cuban or non-Haitian refugee's date of entry appears on the INS form I-94, I-151, or I-551; and

(3) The date of entry for an asylee will be the date that the individual is granted asylum in the United States. Potential eligibility for RRP-FA and RRP-MA begins the date asylum is granted and continues for a period of eight months.

(I) For a refugee who applies for RRP so that the only assistance payment or health card would be for the refugee's last month of eligibility, the assistance payment or payment for medical services could be made for that month, even if the payment is not issued until after the end of the last month of time-limited eligibility.

(K) The requirement for categorical relatedness (regarding family composition or the presence of children), is waived for RRP-FA, RRP-MA, and RRP social services. However, for RRP-FA, OAC Rules 5101:1-3-02, 5101:1-3-09, 5101:1-3-10, 5101:1-23-07, and 5101:1-23-20 (excluding the \$250 and ½ remainder disregard) apply.

(Z) Availability of income and resources

(1) The CDJFS shall not consider any resources remaining in the individual's country of origin to be accessible to an applicant for or recipient of RRP-FA OR RRP-MA.

(2) The CDJFS shall not consider a sponsor's income and resources to be accessible to a refugee solely because the person is serving as a sponsor.

(3) The CDJFS may not consider any cash grant received by an applicant under the department of state or department of justice reception and placement programs in determining eligibility.

(AA) For RRP-FA and RRP-MA, the 185% standard, the 100% standard, and resource limitation as set forth in OAC Rule 5101:1-5-30 are used to determine eligibility. For RRP-MA, the spend down provision set forth in paragraph (AA)(5) of this rule applies at the initial determination.

(1) The 185% standard is calculated based upon the 100% standard of need and is used as a limit on the amount of gross income an AG may have and still be eligible.

(a) Gross income is all earned and unearned income which is counted or not excluded in determining eligibility for OWF. Any income which is considered exempt in calculation of eligibility is excluded from the calculation of gross income for the 185% test.

(b) Gross earned income is counted towards the 185% standard without any earned income disregards applied. The comparison of gross countable income to the one 185% standard is the

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first budget step in calculating financial eligibility.

(c) Any month in which the AG's gross income exceeds the 185% standard results in ineligibility for RRP-FA and RRP-MA for that month. This comparison must be done at application, reapplication, and any time income or need changes.

(2) The 100% need standard is the amount determined necessary to meet the minimum requirement for food, clothing, housing, utilities, transportation, and personal/incidental items. The 100% need standard is used in calculations as an allowance for the needs of a nonrecipient individual. An example is in the stepparent budget or minor caretaker budget where an allowance must be made for the individual's needs which are not being included in the AG.

(4) Calculation of RRP income eligibility

(a) In order to determine eligibility for RRP, eligibility for a money payment through RRP-FA, is explored first. The exception to this is when the refugee is specifically requesting RRP-MA only.

(b) Determining eligibility for RRP-FA when there is earned income has two budget calculations. The first calculation is to determine if the AG meets the gross income limitation. The second calculation determines the amount of the RRP-FA money payment.

(i) Each RRP AG in which any member has income must have the total income compared to the 185% standard as the first step in determining RRP-FA eligibility. If the gross income exceeds the 185% standard, the AG is ineligible for RRP-FA.

(ii) If the gross income is under the 185% standard, the CDJFS subtracts the \$90 work expense disregard and dependent care costs as that amount is delineated in OAC Rule 5101:1-23-20. The remainder is compared to the OWF payment standard. When there is a deficit between the remainder and the OWF payment standard, the deficit is the amount of the RRP-FA money payment. RRP-FA may not be authorized when the amount is less than ten dollars per month. An individual or AG determined eligible for less than ten dollars is considered a recipient of RRP-FA or AG of RRP-FA. Individuals or AGs eligible for less than ten dollars per month retain eligibility for RRP-MA. If there is no deficit, the refugee is not eligible for an ongoing RRP-FA money payment. The CDJFS then explores RRP-MA eligibility. (Emphasis added).

(5) Calculation of RRP-MA eligibility

(a) For a refugee who is financially ineligible for RRP-FA or a refugee who is only applying for RRP-MA, income eligibility for RRP-MA is determined as set forth in this rule.

(i) To calculate RRP-MA income eligibility, first apply the budgeting set forth in paragraph (AA)(4)(b)(i) of this rule.

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(ii) If the gross income is under the 185% standard, apply the calculation set forth in paragraph (AA)(4)(b)(ii) of this rule. If the countable income is equal to or less than the OWF payment standard, eligibility for RRP-MA exists.

(iii) If the countable income exceeds the OWF payment standard, then all incurred spenddown expenses of any member of the AG are deducted in accordance with OAC Rules 5101:1-39-10, 5101:1-39-101, 5101:1-39-102, and 5101:1-39-103. If after deducting these spenddown expenses, the countable income equals or falls below the OWF payment standard, the AG is eligible for RRP-MA.

(b) When a recipient of RRP-FA or RRP-MA becomes ineligible solely by reason of increased hours or income from employment, the recipient continues eligible for RRP-MA until the time-limited eligibility period for the individual has ended. (Emphasis added).

(i) When a refugee obtains private medical coverage, any payment by RRP-MA shall be reduced by the amount of the third party payment.

(ii) Extended RRP-MA is available to every RRP-MA recipient, regardless of the recipient having been in receipt of RRP-FA.

(iii) There is no spend down requirement as a condition of receiving extended RRP-MA.

ANALYSIS:

In review of the evidence and testimony, I find that the Appellant is no longer eligible for the cash payment (RRP-FA) because her earned income exceeds eligibility requirements. OAC 5101:1-2-40(AA)(5) explains procedures for determining eligibility for RRP-FA. First, compare the total gross earned income to the 185% standard. In this case, the hearing officer finds that the Appellant's averaged monthly gross income is \$464 (as computed by the Agency). This \$464 gross monthly income is less than the 185% standard, which is \$1,288 for a one-person assistance group. The Appellant passed the initial test.

However, the second step to determine eligibility for RRP-FA includes deducting a \$90 work disregard and child care expenses. Appellant does not have child care expenses so only the \$90 work disregard is applied to this case, which reduces the \$464 income to \$374. The \$374 is now compared to \$223, the ADC-Q need standard for a one-person AG. Since net monthly income of \$311 exceeds the \$223 ADC-Q standard, she is no longer eligible for the RRP-FA benefits.

However, in order to determine continued coverage for medical benefits, to her gross monthly income the OAC 5101:1-2-40(AA)(5)(b) rules apply. According to 5101:1-2-40(AA)(5)(b), when a recipient of RRP-FA or RRP-MA becomes ineligible solely by reason of increased hours or income from employment, the *recipient continues eligible for RRP-MA until the time-limited eligibility period for the individual has ended*. Therefore, although her earned income renders her ineligible for RRP-

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FA cash assistance, Appellant continues to be eligible for the RRP-MA (medical assistance) until the eight month period has ended.

Moreover, the Appellant is no longer eligible for cash assistance but she is eligible for medical assistance.

HEARING OFFICER'S RECOMMENDATIONS:

Based upon the record before me, I find appeal 1000812 (RRP-FA) should be Overruled. The Appellant's earned income of \$374 exceeds the \$223 OWF eligibility standard for one person. The Agency's termination is correct.

Based upon the record before me, I find appeal 1000817 (RRP-MA) should be Overruled. The Appellant's proposed termination of medical assistance (RRP-MA) is not correct. The Agency shall continue medical assistance until the end of the eight month eligibility period. The Agency shall also review the beginning date of aid. Running Record Comments does not clarify whether the eight month period begins in August 2000 or begins on 10/12/00.

FINAL ADMINISTRATIVE DECISION AND ORDER:

Finding the hearing officer's decision to be supported by the evidence, the recommendations shown above are adopted, appeal number 1000812 (RRP-FA) is Overruled and appeal 1000817 (RRP-MA) is Sustained. The agency is required to comply with each of the terms set forth in the hearing officer's recommendation.

In order to assure that the Appellant promptly receives all benefits by this favorable decision, OAC Rule 5101:6-7-03(B)(1)(a) requires the county agency to comply with the terms of this recommendation in the RRP program within fifteen (15) calendar days from the date the decision is issued, but in no event later than ninety days from the date of the hearing request.

APPENDIX:

AGENCY EXHIBITS:

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- A. Appeal Summary
- B. Agency form 534
- C. Running Record Comments
- D. Agency policy clarification memo
- E. Notice History

APPELLANT EXHIBITS:

- 1. Pay Stub dated 1/17/01

Date Issued: 01/29/2001