

## STATE HEARING DECISION

ODHS 4005 (Rev. 9/94)

County <b>HAMILTON</b>	District Hearings Section <b>CINCINNATI</b>	Assistance Group Name		Assistance Group Number
Place of Hearing <b>HAMILTON CDJFS</b>	Initial Hearing Date <b>11/08/2002</b>	Rescheduled Postponed to <b>12/12/2002</b>	Rescheduled Postponed to <b>12/12/2002</b>	Rescheduled Postponed to <b>12/12/2002</b>

Appellant/Representative	Appellant Representation
	Local Agency Representation <b>Shelli Daniels, Employment Coach</b>

Date Notice Mailed <b>08/28/2002</b>	Date Received by Local Agency	Date Received by ODHS <b>10/16/2002</b>	Date Appeal Summary Received <b>12/12/2002</b>	Date Scheduling Notice Mailed <b>12/03/2002</b>
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Appeal Number(s)/Program(s) <b>1090518/OWF, 1090521/MED, 1090523/MED</b>
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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 CINCINNATI District hearing section at 1-800-686-1571.

**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 43215-3414 or FAX (614) 728-9574.** 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 SECTION:

#### Issue #1 - 1090518 (OWF):

On 8-28-02, the Hamilton County Department of Job and Family Services (agency) denied the appellant's application for Ohio Works First (OWF) benefits due to income exceeding the initial eligibility test and past fraudulent receipt of assistance. At the hearing, the agency explained the only reason for denial was the assistance group's income; the agency did not contend that there was any fraud.

The issue for appeal is whether the agency's action was correct. The hearing decision finds that the assistance group's income exceeds the program eligibility standard. The agency's action is affirmed.

TMD

Appeal(s) <b>OVERRULED 1090518, 1090521, 1090523</b>	Date Issued <b>01/03/2003</b>	Compliance
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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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Issue #2 - 1090521 (MAC):

On 8-28-02, the Hamilton County Department of Job and Family Services (agency) denied the appellant's application for Covered Families and Children Medicaid (MAC) due to assistance group income exceeding the program eligibility standards.

The issue for appeal is whether the agency's action was correct. The hearing decision finds that the assistance group's income exceeds the programs eligibility standard. The agency's action is affirmed.

Issue #3 - 1090523 (MAY):

On 8-28-02, the Hamilton County Department of Job and Family Services (agency) denied the appellant's application for Transitional Medicaid (MAY) due to the appellant's failure to complete required reports.

The issue for appeal is whether the agency's action was correct. The hearing decision finds that there is no evidence that the appellant is eligible for Transitional Medicaid. The agency's action is affirmed.

**PROCEDURAL MATTERS:**

On 10-16-02, the Bureau of State Hearings received the appellant's written request for a state hearing. The hearing was scheduled for 11-8-02. At the appellant's request, the hearing was rescheduled for 12-12-02 and conducted on that date. The appellant, her mother, and an agency representative were present. All participants were sworn in by the hearing officer.

**FINDINGS OF FACT:**

1. On 8-27-02, the appellant applied for Ohio Works First (OWF) and Medicaid benefits from the agency.
2. The appellant's household, and the OWF assistance group, consisted of the appellant and her two minor children. None of the household members are disabled or pregnant.
3. The appellant works about 34 hours per week and earns \$8.75 per hour. She is paid biweekly. Using the appellant's pay stubs, the agency accurately converted the appellant's gross income to a monthly earned income of \$1,378 (exhibit I).

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4. The appellant receives biweekly child support of \$155.06. The agency accurately converted the child support amount to a monthly unearned income of \$333 (exhibit J).
5. The appellant pays \$65 per month for dependant care.
6. The agency added the appellant's earned income of \$1,378 and unearned income of \$333, subtracting the \$65 dependant care allowance to accurately determine that the appellant's gross income for OWF was \$1,646.
7. The appellant's gross income of \$1,646 was over the OWF initial income test of \$630 for an assistance group of three. The appellant's gross income was also over the OWF payment standard of \$373 for a family of three. Accordingly, the agency denied OWF, by notice mailed, 8-28-02.
8. The agency accurately determined that the assistance group income was greater than the Covered Families and Children Medicaid need standards. Accordingly, the agency denied Covered Families and Children Medicaid, by notice mailed, 8-28-02. However, the children were approved for ongoing Healthy Start Medicaid eligibility on 8-27-02.
9. Testimony from the agency and appellant indicated that the appellant received Transitional Medicaid earlier in 2002. In April 2002, the agency reports that they terminated the appellant's Transitional Medicaid for failure to complete a periodic report.
10. On 5-7-02 the agency approved the appellant for Covered Children and Families Medicaid. However, evidence indicates that it was terminated by notice issued 7-9-02. There is no evidence that the appellant received Covered Families and Children Medicaid again after that point.
11. On 8-27-02, the agency approved the appellant's two minor children for ongoing Healthy Start Medicaid (MAP).

## **CONCLUSIONS OF POLICY:**

### **Policy**

1. OAC 5101:1-23-20 OWF: income and eligibility states, in relevant parts:
  - (A) Determining initial eligibility

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(1) Except as provided in division (D)(3) of section 5107.10 of the Revised Code, to determine whether an assistance group is initially eligible to participate in OWF, a CDJFS shall determine whether the assistance group's gross income exceeds the amount specified in the chart in division (D)(1)(a) of section 5107.10 of the Revised Code.

(c) The assistance group is ineligible to participate in OWF if the assistance group's gross income, as defined in division (A)(2) of section 5107.10 of the Revised Code, exceeds the amount specified in the chart found in division (D)(1)(a) of section 5107.10 of the Revised Code.

(2) If the assistance group's gross income does not exceed the amount specified in the chart found in division (D)(1)(a) of section 5107.10 of the Revised Code, the CDJFS shall determine whether the assistance group's countable income is less than the payment standard set forth in paragraph (I) of this rule.

For purposes of this paragraph, "countable income" shall be defined as:

(d) The assistance group's gross unearned income as defined in paragraph (D)(2) of this rule.

The assistance group is ineligible to participate in OWF if the assistance group's countable income equals or exceeds the payment standard set forth in paragraph (I) of this rule.

(I)(3) The payment standard for an assistance group size of three is \$373

2. The OWF initial income test for an assistance group size of three is \$630, per Ohio Revised Code (ORC) 5107.10 (D)(1)(a).

3. OAC 5101:1-40-25 sets forth two budgeting methods for establishing eligibility for the Covered Families and Children Medicaid program. It states in relevant parts:

(A) LIF budgeting methodology:

(1) Determine nonexempt gross monthly earned and unearned income in accordance with rule 5101:1-40-202 of the administrative code.

(2) For assistance groups with earned income, deduct the appropriate disregards as

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described in rule 5101:1-40-205 of the administrative code. The result is compared to the payment standard. If the countable income is less than the payment standard, the assistance group is eligible for LIF Medicaid.

(B) time limited healthy families budgeting methodology:

(1) A time limited Healthy Families budgeting methodology is used in the LIF Medicaid budgeting process when an assistance group fails to meet the budgeting methodology described in paragraph (A) of this rule.

(2) The time limited Healthy Families budgeting methodology process compares all nonexempt gross monthly earned and unearned income to the one hundred per cent federal poverty level standard for the appropriate assistance group size as set forth in rule 5101:1-40-26 of the administrative code.

4. The 100% need standard is \$1,252 for a family of three as stated in Manual Transmission Letter No. 430.

5. OAC 5101:1-40-05 Covered families and children medicaid: transitional medicaid explains the eligibility requirements for Transitional Medicaid. It specifies that only assistance groups with earned income that lose healthy families/low income families (LIF) eligibility due at least in part to income from employment or expiration of the 24 month time limits for healthy families (if the family has any earned income) budgeting methodology are potentially eligible for two six-month periods of transitional medicaid coverage.

6. OAC 5101:6-7-01 State hearing decisions states, in relevant parts:

(C)(1) The hearing officer's findings of fact shall be based exclusively on the evidence introduced at the hearing . . . .

(C)(1)(c) 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.

### **Analysis**

The programs for which the appellant applied are all need-based public benefits. Therefore, OWF and Medicaid programs require eligible assistance group members to meet specific income limits, also called need standards.

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The OWF denial notice sent to the appellant stated that she was ineligible due to income and also fraudulent assistance received by the assistance group. The agency explained, at the hearing, that the fraud reason code was an error. There is not currently an allegation of fraudulent assistance. The evidence confirms that the assistance group's countable income for OWF of \$1,646 is greater than the initial income test of \$630. The agency denial of OWF benefits is affirmed.

Covered Families and Children Medicaid provides Medicaid for low-income parents and children. There are two eligibility tests for the program. The first compares the assistance group's gross countable income to the OWF payment standard. The rules allow the agency to deduct \$250 and half of the remainder from earned income. However, even with the earned income disregard, the assistance group income is over the OWF payment standard of \$373 for an assistance group size of three. The second method of determining eligibility compares the assistance group's total gross income to 100% of the federal poverty level, which is \$1,252 for an assistance group size of three. Therefore, the agency was correct to deny Covered Families and Medicaid.

The agency approved the appellant's children for Healthy Start Medicaid, a program that has higher income limits, but only provides Medicaid for children and pregnant women.

As the agency explained at the hearing, Transitional Medicaid is a program for individuals who have lost eligibility for OWF or certain Medicaid programs due to their earned income. The appellant had not lost OWF or Covered Families and Children Medicaid. Evidence indicates that she has not received Covered Families and Children Medicaid since July 2002. Therefore, the agency was correct to deny Transitional Medicaid coverage to the appellant.

The agency explained that the appellant's notice stated that she was ineligible due to failure to return a periodic reporting form, because she failed to return a form when she was receiving Transitional Medicaid in May 2002. The appellant testified that she did return the periodic reporting form. However, the hearing officer advised the appellant that an issue from more than ninety days prior to the state hearing request, could not be heard with this appeal.

#### **HEARING OFFICER RECOMMENDATIONS:**

##### Issue #1 - 1090518 (OWF):

Appeal number 1090518 is **OVERRULED**. The agency accurately determined that the assistance group income exceeds the OWF program standards.

##### Issue #2 - 1090521 (MAC):

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Appeal number 10905212 should be OVERRULED. The agency accurately determined that the assistance group's earned income exceeds the program income limits.

Issue #3 - 1090523 (MAY):

Appeal number 1090523 should be OVERRULED. There preponderance of the evidence indicates that the appelland does not have any eligibility for Transitional Medicaid (MAY).

**FINAL ADMINISTRATIVE DECISION AND ORDER:**

Issue #1 - 1090518 (OWF):

Finding the hearing officer's decision to be supported by the evidence, the recommendation shown above is adopted. The appeal is OVERRULED.

Issue #2 - 1090521 (MAC):

Finding the hearing officer's decision to be supported by the evidence, the recommendation shown above is adopted. The appeal is OVERRULED.

Issue #3 - 1090523 (MAY):

Finding the hearing officer's decision to be supported by the evidence, the recommendation shown above is adopted. The appeal is OVERRULED.

**Exhibits:**

Agency:

- A - Notice history detail screen (OWF)
- B - Benefit recovery claim screen
- C - Benefit recovery menu
- D - ADC/ADC related Medicaid need standard budget
- E - Notice history detail screen (MAC) and notice history (2 pages)
- F - MAC Medicaid benefit determination budget
- G - Notice history detail screen (MAY)
- H - Running record comments 1-28-02 through 4-22-02

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- I - Employment information screen
- J - Monthly unearned income screen
- K - Running record comments 8-27-02 through 9-13-02

Appellant:

- 1 - Medicaid notice, dated 5-7-02
- 2 - Medicaid and OWF notice, dated 8-28-02

Date Issued: 01/03/2003