

## STATE HEARING DECISION

ODHS 4005 (Rev. 9/94)

County <b>MONTGOMERY</b>	District Hearings Section <b>CINCINNATI</b>	Assistance Group Name		Assistance Group Number
Place of Hearing <b>MONTGOMERY</b>	Initial Hearing Date <b>11/13/2002</b>	Rescheduled Postponed to <b>12/20/2002</b>	Rescheduled Postponed to <b>12/20/2002</b>	Rescheduled Postponed to <b>12/20/2002</b>

Appellant/Representative	Appellant Representation
	Local Agency Representation <b>Gwen Brooks</b>

Date Notice Mailed <b>10/07/2002</b>	Date Received by Local Agency	Date Received by ODHS <b>10/21/2002</b>	Date Appeal Summary Received <b>12/20/2002</b>	Date Scheduling Notice Mailed <b>12/09/2002</b>
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Appeal Number(s)/Program(s) <b>1091852/OWF, 1091854/FS, 1091857/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 1 (1091852):

On 10/07/02, the Montgomery County Department of Job and Family Services (MCDJFS) proposed termination of Ohio Works First and applied a third occurrence sanction because the appellant failed without good cause to attend a work activity assignment. The issue is whether she established good cause for her work activities non-participation.

She did not establish good cause for her non-participation, therefore, the proposed third occurrence sanction is affirmed.

### ISSUE 2 (1091854):

PJS

Appeal(s) <b>OVERRULED 1091852, 1091854, 1091857</b>	Date Issued <b>01/17/2003</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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On 10/07/02, the Montgomery County Department of Job and Family Services (MCDJFS) proposed a reduction of Food Stamps and applied a third occurrence sanction because the appellant failed without good cause to attend a work activity assignment. The issue is whether she established good cause for her work activities non-participation.

She did not establish good cause for her non-participation, therefore, the proposed third occurrence sanction is affirmed.

**ISSUE 3 (1091857):**

On 10/07/02, the Montgomery County Department of Job and Family Services (MCDJFS) proposed a Medicaid assistance group (AG) change due to a third occurrence sanction because the appellant failed without good cause to attend a work activity assignment. The issue is whether she established good cause for her work activities non-participation.

She did not establish good cause for her non-participation, therefore, the proposed third occurrence sanction is affirmed.

**PROCEDURAL MATTERS:**

The MCDJFS mailed OWF termination, Food Stamp reduction, and Medicaid AG Change notices to the address of record on 10/07/02. The State Hearing request was received by the Bureau of State Hearings on 10/21/02. The hearing was rescheduled from 11/13/02 to 12/20/02 because she established good cause for the reschedule.

Benefits continue pending issuance of the State Hearing Decision because the State Hearing request was received timely.

**FINDINGS OF FACT:**

1. The assistance groups (AG) consisted of the appellant and her six-year-old child.
2. Both of the AG members received OWF.
3. The AG is pure.
4. First occurrence OWF and Food Stamp sanctions were applied from 06/01/01 through 09/24/01 and 06/01/01 through 09/30/01, respectively.
5. Second occurrence OWF and Food Stamp sanctions were applied from 03/01/02 through 06/03/02 and 03/01/02 through 05/08/02, respectively.
6. She signed the Self Sufficiency Contract, Plan, and Good Cause Statement on 08/28/02.

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7. She was a mandatory work activities participant.
8. She was required to participate twenty-two (22) hours per week with the Work Experience Program (WEP)-YWCA beginning on 09/09/02.
9. She did not attend WEP-YWCA on 09/27/02 and 10/01/02.
10. Good Cause is established for 09/27/02.
11. Good Cause is not established for 10/01/02.
12. A Medicaid Pre-Termination Review (PTR) was completed by the agency.
13. Sanction notices were mailed to the address of record on 10/07/02.

**POLICY:**

Ohio Revised Code (ORC) Section 5107.16

- (A) If a member of an assistance fails or refuses to, without Good Cause, to comply in full with a provision of a self-sufficiency contract entered into under Section 5107:14 of the Revised Code, a county department shall sanction the assistance group as follows:
  - (3) For a third failure or refusal, the county department shall deny or terminate the assistance group's eligibility to participate in Ohio Works First for at least six payment months or until the failure or refusal ceases, whichever is longer...

Ohio Administrative Code (OAC) Section 5101:4-3-39 (7 CFR 273.7)

- (D) Failure by an individual who is an adult or a minor head of household to comply with provisions contained in the self-sufficiency contract, as set forth in Section 5107.14 of the revised code shall result in the imposition of a sanction for that individual as set forth in the Section 5107.16 of the revised code...
- (E) ...An adult eligible for medical assistance pursuant to division (A)(1)(a) of section 5111.01 of the Revised Code who is sanctioned under division (A)(3) of this section for a failure or refusal, without good cause, to comply in full with a provision of a self-sufficiency contract related to work responsibilities under sections 5107.40 to 5107.69 of the Revised Code loses eligibility for medical assistance unless the adult is otherwise eligible for medical assistance pursuant to another division of section 5111.01 of the Revised Code...

**ANALYSIS:**

It is undisputed that all members of the AG received OWF (Pure AG), that she served first and

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second occurrence OWF and Food Stamp sanctions, that she signed the Self Sufficiency Contract, Plan, and Good Cause Statement on 08/28/02, that she was a mandatory work activities participant who was assigned to WEP-YWCA beginning on 09/09/02, and that she did not attend WEP-YWCA on 09/27/02 and 10/01/02.

It is also undisputed that good cause is established for the 09/27/02 non-participation, based on a medical verification (Exhibit 2) submitted by the appellant at the hearing.

She alleges that she also had good cause for her 10/01/02 non-participation because she was ill.

The hearing officer reviewed Exhibit 2 thoroughly which revealed that she was under a physician's care from 09/17/02 to 09/27/02 and that she could return to work beginning on 09/28/02.

No medical verification was submitted for 10/01/02, therefore, the hearing officer finds that good cause was not established.

Good Cause was not established, therefore, the proposed third occurrence sanctions are affirmed.

### **HEARING OFFICER'S RECOMMENDATIONS:**

Issue 1 (1091852)

The appeal should be Overruled. The proposed sanction is affirmed.

Issue 2 (1091854)

The appeal should be Overruled. The proposed sanction is affirmed.

Issue 3 (1091857)

The appeal should be Overruled. The proposed sanction is affirmed.

### **FINAL ADMINISTRATIVE DECISION AND ORDER:**

Issue 1 (1091852)

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Finding the hearing officer's decision to be supported by the evidence, the recommendation shown above is adopted. The appeal is Overruled. No orders of compliance shall be issued against the agency based on this appeal.

Issue 2 (1091854)

Finding the hearing officer's decision to be supported by the evidence, the recommendation shown above is adopted. The appeal is Overruled. No orders of compliance shall be issued against the agency based on this appeal.

Issue 3 (1091857)

Finding the hearing officer's decision to be supported by the evidence, the recommendation shown above is adopted. The appeal is Overruled. No orders of compliance shall be issued against the agency based on this appeal.

**AGENCY EXHIBITS:**

- A. Appeal Summary
- B. Self Sufficiency Contract, Plan, and Good Cause Statement
- C. Attendance Notice
- D. Amendment
- E. 1<sup>st</sup> Occurrence Sanction Screen
- F. 2<sup>nd</sup> Occurrence Sanction Screen
- G. 3<sup>rd</sup> Occurrence Sanction Screen
- H. Individual Demographics Screen
- I. Notice History Detail Screen
- J. Running Record Comments
- K. Cash Issuance Screen
- L. Food Stamp Issuance Screen

**APPELLANT EXHIBITS:**

- 1. Phone Billing Statement
- 2. Medical Verification

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Date Issued: 01/17/2003