

## STATE HEARING DECISION

ODHS 4005 (Rev. 9/94)

County <b>CUYAHOGA</b>	District Hearings Section <b>CLEVELAND</b>	Assistance Group Name		Assistance Group Number
Place of Hearing <b>CUYAHOGA CDHS</b>	Initial Hearing Date <b>11/18/2002</b>	Rescheduled Postponed to <b>12/12/2002</b>	Rescheduled Postponed to <b>12/12/2002</b>	Rescheduled Postponed to

Appellant/Representative	Appellant Representation
	Local Agency Representation <b>Jill Costello, Health and Nutrition Specialist #8155</b>

Date Notice Mailed <b>10/25/2002</b>	Date Received by Local Agency	Date Received by ODHS <b>11/04/2002</b>	Date Appeal Summary Received	Date Scheduling Notice Mailed <b>11/27/2002</b>
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Appeal Number(s)/Program(s) <b>1092834/FS, 1092836/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 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 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

#### Food Stamp program, Appeal No.1092834

On 10/25/2002, the Cuyahoga County Department of Job and Family Services (CDJFS), also known as the agency, notified the appellant they denied the appellant's food stamp eligibility because the appellant's income was greater than the food stamp, net income standard. The issue on appeal is whether the agency's action to deny the food stamp eligibility, due to the appellant's net income being greater than the net income standard, was correct. The hearing officer finds from the facts and policy that the agency's action was correct.

#### Medicaid for the disabled (MA-D), Appeal 1092836

On 10/25/2002, the Cuyahoga County Department of Job and Family Services (CDJFS), also known as the agency, notified the appellant they denied the appellant's Medicaid eligibility because the appellant failed to meet her Medicaid Spenddown liability of \$430.00. The issue on appeal is whether the agency's action to

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Appeal(s) <b>OVERRULED 1092834</b> <b>SUSTAINED 1092836</b>	Date Issued <b>01/29/2003</b>	Compliance <b>1092836</b>
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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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deny the appellant's Medicaid eligibility, due to the appellant failing to meet her Spenddown liability, was correct. The hearing officer finds the agency correctly calculated the Medicaid budget; however, according to the policy the hearing officer finds the agency's action to deny was incorrect. The agency should have authorized the appellant's Medicaid case as open/ fail in the computer system.

### **PROCEDURAL MATTERS**

On 10/31/2002, the appellant requested a state hearing and the Bureau of State Hearings received it on 11/04/2002. The state hearing was scheduled for 11/18/2002, was rescheduled and later was rescheduled and conducted on 12/12/2002.

### **SUMMARY OF THE PROCEEDINGS**

#### Agency Testimony:

The agency representative (AR) stated there has been "no change" to the appellant's food stamps eligibility. The AR stated on 10/25/2002, the agency notified the appellant they denied the appellant's food stamp application, later there was a state hearing conducted and a state hearing decision issued. The AR stated since the decision was issued, there has been "no change."

The AR stated on 07/08/2002 the appellant made an initial application for food stamps and Medicaid. The AR stated previously the appellant was only on the MAUS/ SLMB program. The AR stated this an assistance group of one individual. The AR stated the agency denied the food stamps and Medicaid on 07/24/2002 because the appellant's unearned income was over the Net income standard. The AR stated the agency denied the Medicaid because she failed to meet her Medicaid Spenddown liability. In response to the hearing officer's question about the 10/25/2002 notification of denial for the food stamps and Medical, the AR stated they were alerted to a mass change and the AR re-ran the case with no change. The AR stated the appellant received \$948.00 in Social Security Disability money for 2002.

The AR stated they started with the \$948.00 and the agency provided the following deductions in the food stamp budget: a \$38.00 excess medical deduction and a standard deduction of \$134.00. The AR stated they determined the appellant's Net adjusted income to be \$776.00. The AR stated because the appellant's net income of \$776.00 is over the Net monthly standard, of \$739.00, the agency denied the appellant's food stamp application.

The AR stated with regard to the Medicaid budget, they started with the \$948.00 provided a \$20.00 income disregard and the appellant pays an excess medical (private insurance) premium of \$25.75 making the appellant's on-going income \$902.00 and the 2002 Need standard is \$472.00, leaving a balance of \$430.00. The AR stated the appellant's Spenddown liability would be \$430.00. The AR stated the appellant is eligible for Medicaid; however, she has never met her Spenddown. The AR stated if the appellant has an emergency

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or a hospital stay the agency will re-open, back date and explore Medicaid for the appellant's case. The AR stated she has explained how the Spenddown process works to the appellant on numerous occasions. The AR stated she has explained to the appellant that she could use bills that have accumulated over several months.

The AR stated in response to the appellant that at the face to face interview in 07/2002, the appellant submitted \$48.00 in medical/ prescription bills. The AR stated she did take a three month average of the appellant's bills not covered by Medicare.

### Appellant Testimony

The appellant stated she wanted to appeal the food stamps and Medicaid for the disabled. The appellant stated the Medicaid Spenddown was not properly explained to her and her medical expenses fluctuate on a monthly basis. The appellant stated she is also appealing retroactive food stamps from 1997 to the present date. The appellant stated she receives Social Security for the disabled and the agency has not properly budgeted (Medicaid and food stamps) the medical expenses she has been paying out of pocket. The appellant stated the AR has never explained that she could use medical bills that have accumulated over two or three months. The appellant stated her Spenddown used to be \$363.00 per month and over a three month period she has incurred \$363.00 in medical bills and prescriptions. The appellant stated she does have a \$150.00 delinquent medical bill. The appellant stated in 12/2002 she has incurred several medical bills.

The appellant stated regarding the food stamps, she was reading from a benefit summary the agency publishes. The appellant stated the form states, for one individual with a monthly income of \$960.00, the maximum food stamp allotment is \$139.00. The appellant asked wouldn't she be eligible for food stamps?

### **FINDINGS OF FACT**

- (1) The appellant is the only individual in the assistance group (AG).
- (2) The appellant received \$948.00 (2002) in Social Security disability income.
- (3) As a result of Mass Change to the Food Stamp program effective 10/01/2002, the agency re-ran the appellant's case, on 10/24/2002 to explore food stamp eligibility. In the food stamp budget, the agency provided a \$38.00 excess medical expense and a \$134.00 standard deduction. The agency determined the appellant's Net income was \$776.00.
- (4) On 10/24/2002, the agency re-ran the appellant's case for Medicaid. In the Medicaid budget, the agency provided a \$20.00 income disregard and a \$25.00 medical premium disregard and determined the appellant's ongoing income to be \$902.00 and compared it to the \$472.00 (2002) Medicaid Need standard. And the

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agency determined the appellant's Medicaid Spenddown amount of \$430.00.

(5) On 10/25/2002, the agency notified the appellant they denied the appellant's food stamp application because the appellant's income was greater than the food stamp Net income standard. On the same day, the agency notified the appellant they pended and denied the Medicaid because the appellant

(6) On 10/31/2002, the appellant requested a state hearing.

(7) The hearing officer found one hearing decision issued under the appellant's name for the month of 02/2002.

## CONCLUSIONS OF POLICY

### Policy

#### Food Stamp program

Ohio Administrative Code (OAC) 5101: 4-4-19 (A)(2) states that all wages and salaries of an employee and all unearned income are considered countable income in the food stamp program.

O.A.C. 5101:4-4-31 (R) states that an assistance group (AG) member shall meet the gross and net income standards as described in this rule unless at least one member is elderly or disabled. An AG which contain an elderly or disabled member, but **do not** qualify for categorical eligibility **shall meet the net income** eligibility standard.

O.A.C. 5101:4-4-31 (T)(1)(3)(4) states, under (T)(1) to add or total all gross, earned and unearned income. (T)(3) states to subtract a standard deduction, in this case the standard deduction is \$134.00 according to Appendix "A" of O.A.C. 5101: 4-4-23. Under (T)(4) of the rule, it states if the AG is entitled to an excess medical deduction, determine if the total medical expenses exceed thirty five dollars. If they do then subtract the balance from the total gross income. The balance or the adjusted income becomes the Net income if there is no excess shelter deduction.

O.A.C. 5101: 4 - 4-11, Appendix "B", for individuals who are either elderly or disabled but not considered "categorical eligible." It indicates for an assistance group of one individual the maximum Net monthly income is \$739.00.

#### Medicaid

O.A.C 5101:1-39-10 (A) this rule sets forth the Spenddown process for the Medicaid program for the aged, blind or disabled (ABD). Under (B)(5) of the rule, it states for a SAG that must satisfy a monthly Spenddown amount in order to become eligible for Medicaid for a month. Under (B)(5)(a) of the rule, the CDJFS **shall**

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**not** deny ABD Medicaid for a SAG who is applying for Medicaid and does not anticipate satisfying Spenddown in the month of application, or in one or more future months. Instead, the CDJFS shall authorize the SAG as open/fail in CRIS-E, changing the SAG to open/pass in CRIS-E for any month in which the SAG satisfies Spenddown. Under (B)(5)(b) the CDJFS shall not propose to terminate ABD Medicaid for a SAG that does not satisfy Spenddown for one or more months. Instead, the CDJFS shall maintain the SAG as open/fail in CRIS-E, changing the SAG to open/pass for any month in which the SAG satisfies the Spenddown.

O.A.C 5101: 1-39-20 (B) states "countable income" is defined as gross income and or unearned income less the appropriate disregards and is measured against the Medicaid need Standard. Under (E)(3) of the rule, it states to combine all countable unearned and earned income to establish the total countable income.

Under (F) of the rule, it states the twenty- dollar (\$20.00) per month disregard applicable to either earned or unearned income is applied against the unearned income.

OAC 5101:1-39-21 (A) is a chart of the monthly income levels or need standards applied in the Medicaid program for aged, blind, or disabled assistance groups. For an eligible individual, countable income is compared to the appropriate individual need standard. For an eligible couple, countable income is compared to the appropriate couple need standard. For an eligible individual with an ineligible spouse, countable income is compared to the appropriate individual need standard. Effective January 1, 2003 the standards is \$479.00 for an individual, **previously in 2002 the Need Standard was \$472.00.**

### Analysis

In the present case, on 10/24/2002, the agency redetermined the appellant's food stamp and Medicaid eligibility. The appellant received, in 2002, \$948.00 in Social Security disability monies. The appellant argued the agency did not properly explain how the Spenddown process works and the types of medical expenses the appellant can use to meet her Spenddown. The appellant also argued that from the literature she read, she was entitled to food stamps.

The agency determined through the food stamp budgeting process that the appellant's Net income was \$776.00. The hearing officer finds the O.A.C. 5101:4-4-31 (R) states an AG which contains an elderly or disabled member, but **do not** qualify for categorical eligibility, **shall meet the net income** eligibility standard. The hearing officer finds the O.A.C. 5101: 4 - 4-11, Appendix "B", refers to individuals who are either elderly or disabled but not considered "categorical eligible." It indicates for an assistance group of one individual the maximum Net monthly income is \$739.00. The hearing officer finds the agency's action of denial was correct.

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Regarding the Medicaid, the agency determined through the Medicaid budgeting process that the appellant's Medicaid Spenddown liability was \$430.00. Since the appellant did not meet her \$430.00 Spenddown, the agency denied the appellant's Medicaid eligibility. The hearing officer finds the OAC 5101:1-39-10 (A) sets forth the Spenddown process for the Medicaid program for the aged, blind or disabled (ABD). Under (B)(5) of the rule, it states for a Spenddown assistance group (SAG) that must satisfy a monthly Spenddown amount in order to become eligible for Medicaid for a month. Under (B)(5)(a) of the rule, the CDJFS **shall not deny ABD Medicaid for a SAG who is applying for Medicaid and does not anticipate satisfying Spenddown in the month of application, or in one or more future months.** Instead, the CDJFS shall authorize the SAG as open/fail in CRIS-E, changing the SAG to open/pass in CRIS-E for any month in which the SAG satisfies Spenddown. Although the hearing officer finds the agency correctly calculated the appellant's Medicaid budget and Spenddown amount, the hearing officer finds the agency should not have denied the case. Therefore, the hearing officer finds the agency's action is incorrect.

#### HEARING OFFICER'S RECOMMENDATIONS

Based on the record before me, I find the appeal- for food stamps- should be overruled. (1092834)

Based on the record before me, I find the appeal- for Medicaid- should be sustained. (1092836)

The agency should open the category of Medicaid for the Disabled and allow to pend as an open/fail status.

#### FINAL ADMINISTRATIVE DECISION AND ORDER

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

Food stamp appeal overruled.

Medicaid appeal sustained.

Compliance required on the Medicaid appeal.

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.

Appendix:

##### Agency's Exhibits:

- (1) Unearned income screen, AEFMI\*
- (2) Food Stamp budget, AEBFN & AEBFG
- (3) Medicaid budget, AEBMB
- (4) Notice History Detail, CNHD
- (5) Previous state hearing decision 02/25/02

##### Appellant's Exhibits

None

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\*The hearing officer did not receive it.

Date Issued: 01/29/2003