

## STATE HEARING DECISION

ODHS 4005 (Rev. 9/94)

County <b>JACKSON</b>	District Hearings Section <b>COLUMBUS</b>	Assistance Group Name		Assistance Group Number
Place of Hearing <b>JACKSON CDHS</b>	Initial Hearing Date <b>11/10/2003</b>	Rescheduled Postponed to	Rescheduled Postponed to	Rescheduled Postponed to

Appellant/Representative	Appellant Representation
	Local Agency Representation <b>Randy Shaw, Supervisor Pam Lloyd, Employment Counselor</b>

Date Notice Mailed <b>10/20/2003</b>	Date Received by Local Agency	Date Received by ODHS <b>10/21/2003</b>	Date Appeal Summary Received	Date Scheduling Notice Mailed <b>10/31/2003</b>
Appeal Number(s)/Program(s) <b>1143983/PRC</b>				

### 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 Bureau of State Hearings at 1-866-ODJFS-4-U (1-866-635-3748); and choose option number 1 from the main menu.

**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

**Appeal No. 1143983 PRC:** On 10/20/03, the County Department of Job and Family Services (Agency) mailed the Appellant notice of denial of his request for assistance under the Prevention, Retention and Contingency (PRC) program. The application was denied because the Appellant had quit employment without just cause. It was undisputed at the hearing that the Appellant had quit his employment. The reason put forward by the Appellant was excessive transportation expense to get to his place of employment. The county PRC policy adopts the OWF definitions of just cause from the Revised Code. Excessive transportation expense is not included in the Revised Code's acceptable reasons for quitting employment. The Agency's denial was therefore correct.

### PROCEDURAL MATTERS

This appeal was received by the Agency on 10/21/03. The hearing was scheduled to be held at the local

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Appeal(s) <b>OVERRULED 1143983</b>	Date Issued <b>01/16/2004</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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Agency on 11/10/03, and was duly conducted on that date. The Appellant attended the hearing and represented himself. He was accompanied by his wife. The Agency was represented by a Supervisor and by an Employment Counselor. The state Hearing Officer conducted the proceeding by speaker telephone from the office of the Columbus Regional Hearings Unit. All participants were sworn in by the Hearing Officer. Testimony was taken and documents accepted and identified as Exhibits. At the Appellant's request, the record was held open until close of business 11/17/03 for submission of verification of new employment. Based on the evidence presented, the Hearing Officer made the following findings of fact.

### **FINDINGS OF FACT**

- (1) Between 8/13/03 and 9/9/03, the Agency issued two twenty PRC gas vouchers to the assistance group (AG) for employment-related transportation.
- (2) The AG received an OWF grant in the month of September, 2003.
- (3) On 9/19/03, the Agency issued a \$404 PRC voucher to the Appellant for new tires for his truck for employment-related transportation.
- (4) The Appellant received his first paycheck from his job at a waste management company on 9/13/03.
- (5) On 9/23/03, the Appellant requested another voucher for gas. The Agency denied the request.
- (6) The Appellant quit his job on 9/24/03 because he could not afford gas for the thirty-five mile trip to his place of employment.
- (7) The Appellant applied for PRC on 10/20/03, requesting payment for commercial driver's license (CDL) training or for a CDL permit package.
- (8) The Agency denied the Appellant's PRC request on 10/20/03 because the application was made within ninety days of the date he had quit his job with the waste management company.

### **CONCLUSIONS OF POLICY**

#### **Policy**

- (1) Section 5108.06 of the Ohio Revised Code (ORC) states that "Under the prevention, retention and contingency program, an assistance group that includes at least one minor child and meets the programs's eligibility requirements shall receive assistance or services needed to overcome immediate barriers to achieving or maintaining self-sufficiency and personal responsibility.'

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(2) Section 5108.08 of the ORC specifies that "Each county department of human services shall either adopt the model design for the prevention, retention and contingency program the state department of human services develops under section 5108.07 or develop its own policies for the program."

(3) Section 5108.09 of the ORC provides that "When a hearing . . . is held regarding the prevention, retention and contingency program, the hearing officer . . . shall base the decision on the . . . county department's written statement of policies adopted under section 5108.08 of the Revised Code and any amendments the county department adopted to the statement."

(4) PRC Plan, page 2, states "Applicants who are ineligible include the following . . . 7) households containing any adult or minor head of household who quits a job is ineligible for a 90-day period from the date of the quit except where good cause has been established per 5107.26 of the Ohio Revised Code."

(5) Ohio Revised Code (ORC) 5107.26, "Ineligibility due to terminating employment without just cause," sets forth just cause reasons for termination of employment under the OWF program. The county Agency has adopted those standards as applicable to its PRC program. Just cause, or acceptable reasons for quitting employment under this Revised Code section includes the following: leaving employment for the purpose of taking a comparable or better job; unreasonable work demands such as working without being paid on schedule; discrimination by an employer due to age, race, sex, color, handicap, religious beliefs or national origin; being paid less than the Federal minimum wage; strike or lock-out; documented degree of risk to the recipient's health or safety; verified physical or mental unfitness to perform the duties; documented illness of the participant or a family member needing the participant's care; a documented household emergency; lack of adequate child care for children under six years of age.

### **Analysis**

The rule cited above in item (2) states that each county shall either adopt the state model PRC policy or develop its own written policy. The rule cited in item (3) says that when a state hearing is held regarding a PRC denial, the hearing officer shall base his decision on the county department's written policy. The section of the county PRC policy cited in item (4) states that a ninety-day period of PRC ineligibility shall result whenever an AG member quits employment without just cause as defined in ORC 5107.26. The Appellant quit his job because of the expense of buying gasoline for the 70-mile daily round trip to and from work. An individual's determination that the cost of employment-related transportation is excessive is not listed in the just cause reasons contained in section 5107.26. The hearing officer does not disagree with the concept that excessive job-related expenses can create a situation where the financial gain from employment becomes marginal, but the Appellant knew the distance involved when he accepted the job. Further, the Agency had issued \$444 of employment related-transportation PRC assistance to the within six weeks of the job quit.

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Regardless of these considerations, the fact is that the Appellant's reason for quitting is not listed in the ORC section cited in the Agency's policy. The Agency's decision was therefore correct.

## HEARING OFFICER'S RECOMMENDATIONS

**Appeal No. 1143983 PRC:** Based on the record before me, I find the appeal should be overruled. The Agency's denial of PRC was in conformity with the provisions of its county policy and of the Revised Code.

## FINAL ADMINISTRATIVE DECISION AND ORDER

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

## APPENDIX

### Exhibits

- (1) ODHS 4069, State Hearing Request.
- (2) JFS 7334, Notice of Denial of Your Application for Assistance, dated 10/20/03.
- (3) JFS 4067, Appeal Summary and one-page narrative.
- (4) DHS 3800, PRC Application, dated 10/20/03.
- (5) Page 2 of County PRC Plan.
- (6) DHS 3800, PRC Application, dated 9/11/03.
- (7) JFS 7334, Notice of Denial of Your Application for Assistance, dated 9/11/03.
- (8) Two pages of CRIS-E (computer case record) screen-print, "PRC Check/Services Entry" and "Assistance Group Authorization."
- (9) Voucher, dated 9/9/03, for \$20 for gasoline.
- (10) DHS 3800, PRC Application dated 9/9/03.
- (11) JFS 7074, Notice of Approval of Your Application for Assistance, dated 9/9/03.
- (12) Two pages of CRIS-E screen-print, "PRC Check/Services Entry" and "Assistance Group Authorization."
- (13) Voucher for truck tires, dated 9/19/03.
- (14) DHS 3800, PRC Application, dated 9/19/03.
- (15) Three estimates for cost of tires.
- (16) JFS 4074, "Notice of Approval of Your Application for Assistance."
- (17) Truck Title.
- (18) Blue Book value pages 36 & 37.
- (19) Pay stub from Appellant's employment, dated 9/18/03.

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Date Issued: 01/16/2004