

IN THE OHIO DEPARTMENT OF JOB AND FAMILY SERVICES  
BUREAU OF STATE HEARINGS

ADMINISTRATIVE APPEAL DIVISION

IN RE APPEAL OF:

DOCKET NO.	2004-AA-1302
APPEAL No(S).	1197437 / MED
AG No.	
HEARING REQUEST DATE:	10/19/2004
HEARING DECISION DATE:	12/14/2004
APPEAL REQUEST DATE:	12/29/2004
90 Day Federal Deadline:	<b>01/17/2005</b>
<b>Ottawa</b> CDJFS	

Administrative Appeal Decision

The Appellant has requested an administrative appeal of the state hearing decision issued 12/14/04. The state hearing decision found that the Ottawa County Department of Jobs and Family Services (Agency) was correct to propose to terminate the Appellant's Medicaid benefits based on the determination by County Medical Services (CMS) that the Appellant was no longer disabled for Medicaid purposes. The Appellant's administrative appeal request states that she is appealing the decision to terminate Medicaid, and that she will follow-up with a reason. As of this date, no other information has been received from the Appellant. Without a specific assignment of error, the state hearing will be reviewed generally to determine if there is any error that affects the outcome of the appeal.

The Appellant was receiving Medicaid based on a 3/26/03 finding by CMS that she was disabled. The Appellant's disabling condition is back pain. The case was reviewed as a continuing disability review and CMS determined that there had been medical improvement of the Appellant's condition related to her ability to work and that the Appellant has in fact been working.

Ohio Admin. Code 5101:1-39-03.2 provides that CMS determinations of disability are based on the SSI requirements specified in 20 CFR 416.901 to 416.998. 20 CFR 416.994 sets forth the standard for determining whether an individual continues to be disabled at a continuing disability review. First, CMS must determine if there has been any medical improvement in the Appellant's impairment and, if the improvement is related to the Appellant's ability to work. CMS must also show that the Appellant is able to engage in substantial gainful activity. CMS reviewed the medical records submitted and determined that the Appellant's condition has improved and that it is related to her ability to work. The x-rays of the Appellant's spine and joints show no evidence of a severe condition. But perhaps the most compelling evidence of the Appellant's improvement is that the Appellant has been working in the summers, sometimes up to forty hours per week. The Appellant has worked in a gift shop, for a taxi service and washing dishes. She was employed from 05/03 through 10/03 and from 04/04 through 10/04. As the hearing officer noted, although the Appellant works only half of the year, that is fairly typical for the

residents of Put-In-Bay where the Appellant lives. The Appellant is considered a seasonal full-time employee. The record clearly indicates that the Appellant is able to, and has on a fairly regular basis, engaged in substantial gainful activity. The CMS determination that the Appellant is no longer disabled is correct.

Decision

Having, reviewed the state hearing decision and record, we find the decision contains no error affecting the outcome of the appeal. Accordingly, we hereby ORDER that the decision be AFFIRMED.



Margaret Adams  
Administrative Appeal Officer

CONCUR:



Robert J. Frankart  
Administrative Appeal Officer



Chris Barley, Attorney-at-Law  
Chief Administrative Hearing Officer

DATE OF ISSUANCE January 12, 2005

This Administrative Appeal Decision is the final administrative decision on your case from the Ohio Department of Job and Family Services. If you disagree with this decision, you may have the right to appeal to common pleas court pursuant to Section 5101.35 of the Ohio Revised Code. Your appeal must be filed within thirty days of the date this decision was issued to you. If you have questions about appealing to a court, contact your attorney, local legal aid society, or bar association. If you want information about free legal services, you can call the Ohio State Legal Services Association, toll free, at 1-800-589-5888.

cc: Director, Ottawa County Department of Job and Family Services  
Hearings Supervisor  
Bureau of State Hearings  
CMS: Anthony Trotman, Leisa Allender  
Appellant