

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

**IN RE APPEAL OF:**

DOCKET NO.	2005-AA-0045
APPEAL NO(S).	1205034 / OWF
AG No.	
HEARING REQUEST DATE:	12/03/2004
HEARING DECISION DATE:	12/28/2004
APPEAL REQUEST DATE:	01/11/2005
APPEAL DECISION DATE:	01/26/2005
<b>Marion CDJFS</b>	

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Administrative Appeal Decision

This appeal results from a December, 2004, county denial of the Appellant's October, 2004, application for Ohio Works First (OWF) benefits. The denial was based on the Appellant's refusal in early December to sign a self sufficiency contract (SSC) in which the county proposed that he participate in a four week class designed to explore career objectives and job search strategies. The Appellant maintained that he was medically unable to attend the class but could do a home based program, as he had apparently done during a previous time receiving OWF. The hearing decision overruled the appeal, finding that the Appellant was medically able to attend the class and thus was obligated to sign the SSC as a condition of OWF eligibility.

In his appeal request the Appellant raises two Statements of Error. The first is that the hearing decision is contrary to the weight of the evidence submitted at the hearing that the Appellant is medically unable to attend the class. The second is that the decision relies on a misapplication of OWF statutes that require a more thorough assessment before developing a SSC.

RC 5107.14 requires all applicants for OWF to enter into a SSC with the county as a condition of program eligibility. The goal of the SSC is to "assist the assistance group in achieving self-sufficiency and personal responsibility." The SSC is to be developed based upon an appraisal by the county of the "employment, educational, physiological, and psychological abilities or liabilities, or both..." of the applicant. [RC 5107.41]

It is also based on any assessment conducted in accordance with ORC 5107.70 of substance abuse or "any other circumstances that may limit an assistance group member's employability." The SSC must include an assignment to either an alternative work activity for those with a temporary or permanent barrier to participation in a work activity, or some type of work or development activity. [ORC 5107.42] Once the SSC is signed, failure or refusal to comply with it is a ground for the county suspending program eligibility, unless the participant has good cause. [ORC 5107.16]

We are unable to fully review the present case at this time because the SSC which is in dispute has not been included in the hearing record. In particular, the number of hours per day that the county wishes the Appellant to attend the class is relevant to his claim of medical limitations, but even that information is not in the record. Unfortunately, this conclusion leaves the case far beyond the 30 day application processing standard envisioned by OAC 5101:1-2-10. It appears that the Appellant bears some of the blame for the delay by rescheduling conferences with the county and exhibiting a generally hostile manner in telephone conversations. For its part, the county does appear to have shortcut the appraisal process in its desire to implement a SSC that includes the job counseling class.

In a more typical case that may be a very productive way to begin the process of assisting the applicant to achieve self sufficiency and personal responsibility, as the statute envisions. There are indications, however, that the Appellant's case is somewhat atypical, given a full medical assessment in January, 2004, that concludes that due to spinal degeneration, daily migraines, and anxiety attacks he would have severe functional limitations for a year or more. We realize that there are indications in the record that this condition may have eased, but would point out that ORC 5107.41 provides the following resolution for this kind of impasse:

If the minor head of household or adult claims to have a medically determinable physiological or psychological impairment, illness, or disability, the county department may require that the minor head of household or adult undergo an independent medical or psychological examination at a time and place reasonably convenient to the minor head of household or adult.

Moreover, ORC 5107.70 gives the county the ability to assess whether "there are any other circumstances that may limit an assistance group member's employability" and to make referrals to "a private or government entity that provides assistance or services the county department determines the member needs."

In sum, the interplay of these statutes makes clear that appraisal, assessment, and SSC development is a fluid, cooperative process that is supposed to result in an individualized plan for the applicant to achieve the overall program goals within its framework of time limited assistance. Given the length of time that the Appellant's application has pended, it is imperative that the county, Appellant, and his counsel work together to negotiate and execute SSC even if it will be subject to change because of additional appraisals or assessments that may need to be done. Perhaps the county's SSC format even includes a local grievance procedure to aid the process of resolving differences over the content of the SSC.

**DECISION**

Accordingly, we must ORDER the following:

1. The state hearing decision be REVERSED;
2. COMPLIANCE issue to the county to immediately contact the Appellant and his counsel to schedule a conference, in order to agree on a plan for implementing a SSC and determining if he is otherwise eligible for assistance;
3. The county is directed to send appellant written notice of the action taken as a result of this decision via an ODJFS 4074, 4065, 7334, 7401, 4701 or other appropriate state form. The county is to attach a copy of this notice to the ODJFS 4068 State Hearing Compliance form. The Appellant retains all state hearing rights regarding any future agency determination.

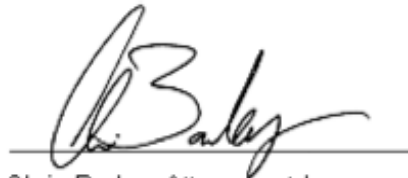


Robert J. Frankart  
Administrative Appeal Officer

**CONCUR:**



Margaret Adams  
Administrative Appeal Officer



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

DATE OF ISSUANCE January 25, 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, Marion County Department of Job and Family Services  
Hearings Supervisor  
Bureau of State Hearings  
OWF: Mark McConnell, Shawn Lotts, Karen Ernes, Beth Kowalczyk  
Appellant  
Appellant's Representative