

## STATE HEARING DECISION

ODHS 4005 (Rev. 9/94)

County <b>HAMILTON</b>	District Hearings Section <b>CINCINNATI</b>	Assistance Group Name		Assistance Group Number
Place of Hearing <b>HAMILTON CDJFS</b>	Initial Hearing Date <b>11/09/2004</b>	Rescheduled Postponed to <b>12/08/2004</b>	Rescheduled Postponed to	Rescheduled Postponed to

Appellant/Representative	Appellant Representation
	Local Agency Representation <b>Shana Allison, Shelette Richardson, Agency; Ellen Langheim, Community Link</b>

Date Notice Mailed <b>09/08/2004</b>	Date Received by Local Agency	Date Received by ODHS <b>10/25/2004</b>	Date Appeal Summary Received	Date Scheduling Notice Mailed <b>11/26/2004</b>
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Appeal Number(s)/Program(s) <b>1198520/OWF</b>
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### Notice to Appellant

This is the state hearing decision in your case. All papers and materials introduced at the hearing or otherwise filed make up the hearing record. The hearing record will be maintained by the Ohio Department of Job and Family Services.

**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 state why you think the hearing decision is wrong. You can complete the appeal request form included with this decision. Your written request or appeal form 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, or your representative, may request a free copy of the hearing record and recording of the hearing by calling the Bureau of State Hearings at 1-866-635-3748 (select option 1 from main menu).

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 #1 B 1198520 (OWF):

Recipients of Ohio Works First (OWF) cash assistance may be sanctioned if they fail, without good cause, to participate in their work assignment. On 9-30-04, the Hamilton County Department of Job and Family Services (Agency) denied the Appellant Ohio Works First (OWF) for a first-occurrence sanction. The termination was based on failure to comply with her work assignment in August 2004.

The hearing decision finds that the Agency failed to show, by a preponderance of the evidence, that the termination of OWF benefits was correct.

### PROCEDURAL MATTERS:

TMD

Appeal(s) <b>SUSTAINED 1198520</b>	Date Issued <b>01/19/2005</b>	Compliance <b>1198520</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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On 10-22-04, the Agency received the Appellant's written request for a state hearing. On 10-25-04, the Bureau of State Hearings received the hearing request. The hearing was scheduled for 11-9-04. At the Appellant's request, the hearing was rescheduled to 12-8-04 and conducted on that date. The Appellant, a Community Link representative and two Agency representatives were present. All participants were sworn in by the hearing officer.

### **FINDINGS OF FACT:**

1. The household consists of the Appellant and her children, ages 15, 12, 8, and 6. All four household members were in both the Ohio Works First (OWF) and Food Stamp assistance groups.
2. On 6-7-04, the Appellant signed a Personal Responsibility Agreement (PRA), the Agency's self-sufficiency contract, with the Agency as a condition of receiving OWF (exhibit A). The Appellant's work participation requirement was thirty hours per week, which converts to 129 hours per month (30 x 4.3 weeks in a month = 129). The Appellant was assigned to work with the Community Link program to develop an individualized case plan.
3. On 6-7-04, the Appellant signed a case plan with Community Link. The Appellant was assigned to a Worknet pending status from 6-8-04 to 7-8-04. She was assigned to start regular attendance at Community Link's Worknet program on 7-9-04, from 8:30 a.m. to 3:30 p.m., Monday through Friday.
4. On 6-7-04, the Appellant reported to the Community Link greeter that she had some medical problems. Community Link case notes reported that they gave the Appellant a basic medical form. There was no deadline for the form or indication that the Appellant might be reassigned to another program.
5. On 6-29-04, the Appellant talked with her Service Coordinator and reported that she was still in pain and in the process of changing doctors. The Service Coordinator spoke with someone else and confirmed that they could place the Appellant in the Worknet Medical program and give her extra time to fill out a basic medical form. Case notes indicated that the Service Coordinator left the Appellant a phone message, but there was no indication that she mailed out the amended case plan or basic medical form.
6. Community Link mailed the Appellant a failure to attend Worknet letter, dated 8-10-04, stating that she should attend Worknet orientation by 8-17-04 and bring documentation for her absences.
7. The Agency received an attendance schedule from Community Link, dated 9-9-04, indicating that the Appellant failed to complete 129 hours of her work assignment in August 2004 (exhibit B).

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8. By notice mailed 9-8-04, the Agency terminated the Appellant's OWF for failure to cooperate with the Agency's Operation Callback, effective 9-30-04. By notice mailed 9-27-04, the Agency denied the Appellant OWF due to the first-occurrence sanction.

## **CONCLUSIONS OF POLICY:**

### **Policy**

1. The Agency must terminate an assistance group's OWF eligibility if they fail or refuse, without good cause to comply with their self-sufficiency contract. Ohio Admin. Code § 5101:1-13-15(B)(1) (2003).
2. For a first failure, the Agency should terminate the cash assistance for one payment month or until the assistance group complies with the self-sufficiency contract, whichever is longer. Ohio Revised Code § 5107.16 (A) (1) (1999).
3. Each county Agency is required to establish standards to determine whether an assistance group had good cause when there is a failure to comply with the self-sufficiency contract. ORC 5107.16 (B) (1999)
4. The Hamilton County Good Cause Policy states, in relevant parts, "Good Cause is defined as an acceptable reason for a participant to refuse or fail to participate with Ohio Works First requirements."
5. The hearing officer's findings of fact must be based exclusively on the evidence introduced at the hearing, per Ohio Admin. Code § 5101:6-7-01 (C)(1) (2003). The rule further states that the Agency is responsible for showing, by a preponderance of the evidence, that its action or inaction was in accordance with department rules (C)(1)(c).

### **Analysis**

To sanction an OWF recipient, the Agency must show that the individual failed to comply with the provisions of their self-sufficiency contract and that they did not have good cause for the failure.

The Appellant testified that she is unable to work after a 2-20-03 accident for which she has a pending Worker's Compensation claim. She contended that she is still under a doctor's care. In August 2004, she was going to the doctor and starting treatment with a new doctor. The Appellant also testified that she had to move in August 2004. Community Link submitted several document submitted by the Appellant after the sanction was taken, but contended that they did not establish good cause for August 2004.

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The evidence demonstrated broken communication on the party of the Appellant and Community Link. The difficulty in determining if the Appellant failed to participate is that the hearing officer is unable to determine the work assignment. The Appellant was due to start Worknet on 7-8-04. On 6-29-04, the case notes indicated that the Service Coordinator agreed to investigate having the Appellant transferred to Community Link's Worknet Medical program for individuals who are unable to work. The Service Coordinator was advised that she could mail the Appellant a new case plan and a basic medical form. The Service Coordinator left the Appellant a message that day, presumably to tell her about the process. The Appellant did not return the call. Community Link did not mail the case plan and basic medical form. The next contact was on 8-10-04 when Community Link mailed the Appellant a failure to attend Worknet appointment notice. The letter advised the Appellant to attend Worknet Orientation by 8-19-04 and bring documentation for her absences.

The Appellant should have returned Community Link's 6-29-04 call. But after the Appellant asked to have her case plan amended, Community Link should have taken more action. The Service Coordinator was probably trying to make it easier on the Appellant by taking care of the reassignment by mail. But when the Appellant did not return the Community Link phone call she could have sent the Appellant an appointment to come for a screening appointment or a letter informing her that her request to amend her case plan was denied. If the Appellant had been clearly notified about how to change her case plan and had not submitted the requested basic medical form, then the sanction could be affirmed. In addition, there was no evidence that the Appellant was notified of any deadlines to return a basic medical form. The Appellant did submit several documents to the Agency on 8-18-04. Not all of the documents were available as evidence at the hearing.

#### **HEARING OFFICER RECOMMENDATIONS:**

##### Appeal #1 B 1198520 (OWF):

Appeal number 1198520 should be SUSTAINED. The Agency should rescind the denial and redetermine the Appellant's eligibility for cash assistance. If additional verification is required, the Agency should permit adequate time to allow the Appellant to provide necessary verification.

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

##### Appeal #1 B 1198520 (OWF):

Finding the hearing officer's decision to be supported by the evidence, the recommendations shown above are adopted. The appeal is SUSTAINED. The Agency shall comply with each of the terms set forth in the hearing officer's recommendations above.

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## COMPLIANCE REQUIRED

Ohio Administrative Code (OAC) Rule 5101:6-7-03 requires compliance with this decision within 15 calendar days from the date it is issued, but in no event later than 90 calendar days from the date of the hearing request.

### **Exhibits:**

#### Agency:

A B Personal Responsibility Agreement and good cause policy, signed 6-7-04 (4 pages)

B B Attendance schedule returned to the Agency from Community Link, dated 9-9-04

C B Notice history detail screens (2 pages)

D B Cash issuance history screen

E B Ineligibility data screen

F B Individual demographics screen

G B Running record comments (8 pages)

H B Community Link exhibits including: case plan, signed 6-7-04; consumer information; transportation; work participation months; case notes; failure to attend Worknet letter, dated 8-10-04; medical information given to Community Link (16 pages)

#### Appellant:

1 - Document receipt, dated 8-18-04 and work release form

Date Issued: 01/19/2005