

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

ADMINISTRATIVE APPEAL SECTION

IN RE APPEAL OF:

DOCKET NO. 2005-AA-1189  
APPEAL NO(S). 1255878 / FS  
1255879 / MED  
AG NO. HEARING REQUEST DATE: 11/08/2005  
HEARING DECISION DATE: 12/07/2005 / **VMR**  
APPEAL REQUEST DATE: 12/20/2005  
AGENCY: **Franklin** CDJFS

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**Administrative Appeal Decision**

The Appellant requests an administrative appeal of the state hearing decision issued on December 7, 2005. The state hearing decision overruled the Appellant's Medicaid appeal, finding that the Appellant and his wife do not meet the citizenship requirements for Medicaid. The state hearing decision also overruled the Appellant's food stamp appeal, finding that the Appellant's household income exceeds the food stamp gross income standard.

The assistance group consists of the Appellant and his spouse who are permanent resident aliens in the United States and their daughter who is a U.S. citizen. The Appellant and his wife entered the U.S. from Morocco in 2003.

Ohio Admin. Code 5101:1-38-02.3 states that a qualified alien and enters the United States after August 22, 1996 does not meet the citizenship requirement for, Medicaid and CFC Medicaid for a period of five years beginning on the date of the alien's entry into the United States. The rule spells out several exceptions to the five year period of ineligibility, including individuals who entered the U.S. as refugees, asylees, who had forty qualifying work quarters, or who were qualifying veterans or military personnel or their spouses or children. Neither the Appellant nor his spouse meet one of these exceptions. They do not meet the citizenship requirement and are not eligible for Medicaid. Their child has been approved for Healthy Start Medicaid.

Similarly, pursuant to Ohio Admin. Code 5101:4-3-07, neither the Appellant nor his wife are eligible to receive food stamps under the citizenship requirements, their child however is eligible. The hearing officer recognized this and indicated that the household income should be compared to the gross income standard for a household of one. The hearing officer failed, however, to prorate the income between the eligible and ineligible members of the household pursuant to Ohio Admin. Code 5101:4-6-13(D). The hearing officer's finding that the household income exceeded the gross income standard is incorrect. The Agency should pro-rate the assistance group's countable income in accordance with the rule and redetermine food stamp eligibility.

Decision

Accordingly we find:

1. The state hearing decision as to Medicaid eligibility, appeal 1255879 is AFFIRMED:
2. The state hearing as to Food Stamp eligibility, appeal 1255878, is REVERSED with COMPLIANCE;
3. The Agency shall pro-rate the assistance group income as set forth in Ohio Admin. Code 5101:4-6-13 and redetermine the assistance group's eligibility for food stamps;
4. The agency is directed to send the 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 agency 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.



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 3, 2006

This Administrative Appeal decision is the final decision on this appeal from the state department of job & family services. It is binding on the department and agency, unless it is reversed or modified on appeal to the court of common pleas.

An Appellant who disagrees with this decision may appeal it to the court of common pleas pursuant to sections 119.12 and 5101.35(E) of the Revised Code. The Appellant shall mail a notice of appeal to the department at the following address:

**Ohio Department of Job & Family Services  
Office of Legal Services  
30 E. Broad Street, 31<sup>st</sup> Floor  
Columbus, OH 43215-3414**

The Appellant must also file the notice of appeal with the court of common pleas in the county in which the Appellant resides (Franklin County, if the Appellant does not reside in Ohio). Please note: Both the mailing to the department and the filing with the court must occur within thirty (30) calendar days of the date of issuance of this decision.

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, Franklin County Department of Job and Family Services  
Hearings Supervisor, VMR, Bureau of State Hearings  
Donna Tonkin, Wanda Ellis  
Mary Mynatt, Tonya Wingate  
Appellant