

**OHIO DEPARTMENT OF JOB AND FAMILY SERVICES  
BUREAU OF STATE HEARINGS**

In the matter of:

<u>Appeal:</u>	<u>Program:</u>	<u>Disposition:</u>
1252030	OWF	OVERRULED
No Compliance Required		
Decision Date:	01/12/2006	
Request Date:	10/14/2005	
Hearing Officer:	VIRGINIA M. RINGEL	

State Hearing Decision

**ISSUE SECTION**

The Agency, the Franklin County Department of Job and Family Services, mailed notice proposing to terminate the Appellant's Ohio Works First cash assistance (OWF) effective October 31, 2005 (Appeal number 1252030) because the Agency determined that the Appellant failed to meet the requirements of her self-sufficiency contract without a good cause reason. The Appellant disagrees with the Agency's decision so she requested this hearing. The issue of this state hearing is whether the Appellant's failure to complete her assigned activity was without good cause, and whether a sanction of her eligibility is warranted.

After careful consideration of the evidence and testimony presented during this state hearing, I found that the Agency's termination of the Appellant's OWF was shown to be consistent with program regulations. Therefore, I recommended that the appeal be overruled.

**PROCEDURAL MATTERS**

The Appellant requested this state hearing in writing by signing the final page of the notice of termination mailed to her October 3, 2005, indicating her request for appeal and faxing it the Ohio Department of Job and Family Services, Bureau of State Hearings October 14, 2005. A state hearing was originally scheduled to be held November 1, 2005. The appeal was dismissed as abandoned because the Appellant did not attend the scheduled hearing. After receiving the notice of dismissal, the Appellant telephoned the Bureau of State hearing, indicated that she never received notice of the hearing. Good cause for rescheduling the state hearing was found by the hearing authority, and the hearing was rescheduled and held Wednesday, January 11, 2006 at the Franklin County North Opportunity Center. The Appellant was present for the state hearing and testified under oath. Diane Starkey, Total Case Manager, represented the Agency by telephone from her office at the West Opportunity Center, and also testified under oath.

Duplicate appeal summaries were received form Ms. Starkey, but because the attachments were not identical, both appeal summaries and all attachments were included in the hearing record as Agency exhibits.

The Appellant last received OWF, because of the timely request for hearing, for the month of November 2005.

**FINDINGS OF FACT**

1. The Appellant's household currently, and in August 2005 consisted of her and her infant child born in March 2005.
2. The Appellant and her daughter were receiving OWF through the Agency due to an extension of the thirty-six month time limit due to a Good Cause extension.
3. The Appellant signed a self-sufficiency contract and plan with case manager, August 19, 2005, and was aware of her assignment to participate in an activity beginning August 22, 2005 at the West Opportunity Center.
4. The Appellant reported to her work site one and one-half hours late, and early.
5. The Appellant failed to attend her assigned work site any time following August 22, 2005.
6. The Appellant orally reported to her worker that she was tardy because she was providing care for her four children, of whom her mother has legal custody. The Appellant provided no written documentation for the reasons for her failure.
7. The Appellant failed to provide a credible explanation for the reason she had to leave her assignment early August 22, 2005.
8. September 14, 2005, the Appellant found employment.
9. The Appellant used borrowed transportation to get to the work site August 22, 2006.
10. The Appellant has not placed her infant daughter in a formal child care placement, yet has been working consistently since she obtained employment in September 2005.
11. The Appellant served a first occurrence sanction from August 1, through August 31, 1998.
12. The Appellant served a second occurrence sanction from October 1, through December 31, 2000.

**CONCLUSIONS OF POLICY**

In the event that an individual fails to meet the requirements of a self-sufficiency contract, without a good cause reason, the county Agency is to apply a sanction to the individual's OWF assistance group. For a third occurrence sanction, the assistance group loses OWF eligibility for six months or until the failure to comply with the self-sufficiency contract stops, whichever is longer.<sup>1</sup> With regard to applying this sanction, the Agency determined that the Appellant's tardiness in reporting to her assigned work site, which happened to be the Agency's West Opportunity Center, and leaving early on the first day of her assignment, to be without good cause, and proposed to initiate a sanction effective November 1, 2005. The Appellant feels she had reasons which should meet good cause.

The Appellant testified that she was tardy because she had an issue with one of her children, of whom she does not have custody, in getting them to camp the first day of her assignment, August 22, 2005. When asked by the hearing officer what the issue was that caused her to be tardy, the Appellant first indicated that she could not remember, because the incident occurred so long before this state hearing. She then indicated that one of the children had an accident and needed dry clothing, and she, as the emergency contact person, was phoned and had to take care of the issue.

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<sup>1</sup> Ohio Rev. Code § 5107.16 (A) (3) (Anderson 2004)

## STATE HEARING DECISION CONTINUATION

The Appellant also provided testimony that the father of her baby was the individual from whom she borrowed transportation, and was one of the two individuals from whom she was receiving child care. She reported that another child of her daughter's father had to be admitted to the hospital at 2:00 p.m. August 22, 2006, as reported to her from the child's physician, and for that reason she had to return the car, and no longer had care for her daughter. The testimony from the Agency was that the Appellant informed the Agency that the Appellant reported that she had to take the child to the hospital and have the child admitted.

Here, the dispute is whether the Appellant's reasons for arriving late and leaving early meet the Agency's good cause criteria. Because the Agency's good cause criteria were submitted by the Agency, as part of the Appellant's self-sufficiency contract, they were reviewed and considered in determining if the Appellant's failure to meet her monthly participation obligation met those criteria.<sup>2</sup> Here, the Appellant indicated during the state hearing that her reason for leaving her assignment early was the lack of child care. The Agency, on the other hand indicated that it was the Appellant's choice to access child care from family and friends, rather than place her child. As the Appellant's testimony indicates that at the time of her failure to complete her assignment, up through the present, she uses informal child care for her daughter, I find that she has arranged and continues to access adequate care. The Appellant's testimony of the chain of events leading up to her need to leave her assignment early August 22, 2005, truly indicate that she experienced lack of child care. The Agency's plan, however, requires the Assigned individual to provide proof of the good cause reason. Here, the Appellant has had three months to obtain proof that the baby's father was unable to provide care for her daughter August 22, 2005 and the following days, due to his need to be at the hospital. The issue of transportation, which was also brought up during the hearing is much the same. The Appellant has had three months to obtain and provide proof of her lack of transportation, but has not. Therefore, lack of child care and transportation, although good cause reasons afforded under the Agency's plan, have not been verified, and therefore have not been shown to be.

With regard to the Appellant's reasons for being tardy, I have reviewed the Agency's good cause criteria, and cannot find that her reason meets any of the good cause criteria as set forth by Agency. The children, about whom the Appellant was speaking, were not in the custody of the Appellant. Although the Appellant argued that the children are members of her immediate family, and her need to take care of an issue that came up August 22, 2005, should be considered good cause. The only reference to "immediate family members," included in the Agency's good cause criteria, is about illness. The Appellant has not claimed, or verified, that one of the children was ill. The Appellant has not provided any proof of any reason for her tardiness, and therefore I cannot find that her missing one and one-half hours was with good cause.

Finally, the issue of whether this was a second or third occurrence sanction was discussed. The Appellant shared a recollection that she previously appealed a second occurrence sanction, and it was reversed when she requested a state hearing. The Agency did not dispute that claim. The Agency testified that there was a second occurrence sanction proposed in April 1999, which was reversed upon review. The Agency also verified that a second occurrence sanction, which was applied to the Appellant's case, began October 1, 2000, was not appealed and was not reversed. Supporting the Agency's assertion were the ineligibility information recorded in the statewide eligibility system, CRIS-E, and the Appellant's state hearing history recorded in the Bureau of

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<sup>2</sup> Ohio Admin. Code § 5101:6-7-01 (C) (2) (b) (2003)

STATE HEARING DECISION CONTINUATION

State Hearings' Hearing and Appeal Tracking System. There is record of an OWF appeal made April 30, 1999, which shows a disposition of "withdrawn" indicating a settlement between the Agency and the Appellant. As the Agency has shown by a preponderance of the evidence that this sanction should be considered a third occurrence failure, warranting a minimum of six months of ineligibility, I find the application was done correctly.

**HEARING OFFICER'S RECOMMENDATION**

Based on the record and Agency policy before me, I recommend that appeal number 1252030 be overruled.

**FINAL ADMINISTRATIVE DECISION AND ORDER**

Since I find that the Hearing Officer's recommendation is supported by policy and the evidence, I hereby adopt the recommendation. Thus, appeal 1252030 is overruled.

  
A. Ruben Lopez, Hearing Authority

January 12, 2006

**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, Bureau of State Hearings, P.O. Box 182825, Columbus, Ohio 43218-2825 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 Bureau of State Hearings 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.

**Aviso a la Apelante**

Esta es la decisión estatal administrativa de su caso. Todos los documentos y materiales presentados como prueba en la vista o de otra manera radicados componen el récord administrativo. El récord administrativo será mantenido por el Ohio Department of Job and Family Services.

Si usted cree que esta decisión estatal administrativa es errónea, usted puede solicitar una apelación administrativa escribiendo al: Ohio Department of Job and Family Services, Bureau of State Hearings, P.O. Box 182825, Columbus, Ohio 43218-2825 o facsímil (614) 728-9574. Su solicitud debe indicar por qué usted piensa que la decisión administrativa es errónea. Usted puede completar la solicitud de apelación incluida con esta decisión. Su solicitud escrita o formulario de apelación tiene que ser recibido por el Bureau of State Hearings dentro de los 15 días calendario desde la fecha en que esta decisión es expedida. (Si el 15to. día recae sobre un fin de semana o un día feriado, esta fecha límite es extendida al próximo día laborable). Durante el período de 15 días de apelación administrativa, usted o su representante pueden solicitar una copia gratuita del récord administrativo y de la grabación de la vista llamando al Bureau of State Hearings al 1-866-635-3748 (seleccione la opción 1 del menú principal).

Si usted quiere información sobre servicios legales gratuitos pero no sabe el número de su oficina local de servicios legales, usted puede llamar al Ohio State Legal Services Association, gratuitamente, al 1-800-589-5888, para el número local.

**STATE HEARING DECISION CONTINUATION**

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Appendix

**Appellant Exhibits:**

1. State Hearing Request (one page)
2. Request to Reschedule Hearing (one page)

**Agency Exhibits:**

- A. Appeal Summary Form and fax cover sheet received November 1, 2005 (two pages)
- B. Running Record Comments from July 28, 2005 through October 6, 2005 (twelve pages)
- C. Printed Notice History Detail (CNHD) and Notice History Reason Code (CNRC) Screens from notice mailed October 3, 2005 (two pages)
- D. Printed Individual General (IQIG) Screen, indicating First Occurrence Sanction (one page)
- E. Running Record Comments from July 10 and 14, 1998 (one page)
- F. Printed Individual General (IQIG) Screen, indicating Second Occurrence Sanction (one page)
- G. Running Record Comments from August 31, October 27 and November 7, 2005 (one page)
- H. Request for Income Verification dated October 6, 2005 (one page)
- I. Appeal Summary Form and fax cover sheet received January 10, 2006 (two pages)
- J. Printed Individual General (IQIG) Screen, indicating Current Sanction (one page)
- K. Printed Notice History Detail (CNHD) Screen from notice mailed November 4, 2005 (one page)
- L. Printed Notice History Detail (CNHD) Screen from notice mailed October 3, 2005 (one page)
- M. Work Activity Referral Forms (two pages)
- N. Self-Sufficiency Plan (five pages)
- O. Self Sufficiency Contract (five pages)
- P. Printed Ineligibility Data (AEOIE) Screen for current sanction (one page)
- Q. Running Record Comments from June 22, 2005 through December 27, 2005 (twenty-one pages)
- R. Printed Ineligibility Data (AEOIE) Screen, indicating Second Occurrence Sanction (one page)
- S. Running Record Comments from July 7, August 31, and October 27, 2000 (one page)
- T. Running Record Comments from January 9, February 9, and February 22, 2001 (one page)
- U. Running Record Comments from April 9 through May 24, 1999 (two pages)
- V. Printed Ineligibility Data (AEOIE) Screen, indicating First Occurrence Sanction (one page)
- W. Running Record Comments from January 9 through September 4, 1998 (four pages)

**Other Items Included in the Record:**

- State Hearing Scheduling Notice (one page)  
Case Summary Report (one page)  
Printed Notice History (CNHS) Screen (one page)  
Printed Notice History Detail (CNHD) Screen (one page)