

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

In the matter of:

<u>Case Number:</u>	<u>County:</u>	
5019828820	LUCAS	
<u>Appeal:</u>	<u>Program:</u>	<u>Disposition:</u>
1314151	OWFOP	SUSTAINED
1314152	FSOP	SUSTAINED
No Compliance Required		
Decision Date:	01/30/2007	
Request Date:	10/27/2006	
Hearing Officer:	DEMETRA PETROS	

State Hearing Decision

**Issue #1 (Appeal #1314151 – OWFOP)**

The Appellant requested a hearing to dispute that the Lucas County Department of Job and Family Services (Agency) requested she repay a \$669 OWF Overpayment for the period 03-01-05 to 05-31-05 caused by inadvertent household error (IHE). The Appellant received OWF for her child (DOB 08-22-04). The Agency stated a form was received reporting the child was removed from the Appellant's custody on 02-04-05 by Lucas County Children Services (CSB) and the Appellant did not timely report this change. The origin of this form could not be established. It was not on Lucas CSB letterhead and was not signed by a CSB representative.

At the hearing, the Appellant submitted a Juvenile Court Judgment Entry, file-dated 07-19-05, stating that she had custody of her child until 07-19-05, when Lucas County CSB received permanent custody.

Therefore, it is found that the Agency was not correct to request the Appellant repay a \$669 OWF overpayment for the period 03-01-05 to 05-31-05. The Appellant had custody of her child until 07-19-05 per the submitted Judgment Entry and would have been entitled to the OWF grants. The appeal is SUSTAINED.

**Issue #2 (Appeal #1314152 – FSOP)**

The Appellant requested a hearing to dispute that the Lucas County Department of Job and Family Services (Agency) requested she repay a \$126 food stamp overpayment 04-01-05 to 05-31-05 caused by inadvertent household error (IHE). The Appellant and child were certified for food stamps together. The Agency stated a form was received reporting the child was removed from the Appellant's custody on 02-04-05 by Lucas County Children Services (CSB) and the Appellant did not timely report this change. The origin of this form could not be established. It was not on Lucas CSB letterhead and was not signed by a CSB representative.

At the hearing, the Appellant submitted a Juvenile Court Judgment Entry, file-dated 07-19-05, stating that she had custody of her child until 07-19-05, when Lucas County CSB received permanent custody.

**STATE HEARING DECISION CONTINUATION**

Therefore, it is found that the Agency was not correct to request the Appellant repay a \$126 food stamp overpayment for the period 04-01-05 to 05-31-05. The Appellant had custody of her child until 07-19-05 per the submitted Judgment Entry and would have been entitled to the food stamps she received. The appeal is SUSTAINED.

**PROCEDURAL MATTERS**

The Bureau of State Hearings received the Appellant's request for a hearing 10-27-06 (See Exhibit #1). A hearing was scheduled for 11-13-06. The Appellant came to the Agency on 11-13-06 for the hearing; however, the Agency did not timely notify the Hearing Officer of this. The Appellant's hearing request was rescheduled. The rescheduled hearing was conducted as a face-to-face hearing at the Agency on 12-04-06. The Appellant, Robert Henning/Appellant's Friend and the following Agency representative attended the 12-04-06 hearing: Pam Richter – Collection Agent and Maggie Wagner – Fraud Investigator. The Agency provided Appeal Summaries on 12-04-06 (See Exhibit A).

**FINDINGS OF FACT**

- 1) The Appellant received Supplemental Security Income (SSI) for herself and \$223 monthly OWF for her child (DOB 08-22-04). The Appellant and child were certified for food stamps together as one assistance group (AG). This was not a SARS case.
- 2) On 05-02-05, the Appellant attended a reapplication interview. She reported a change of address and that she lived with another individual (See Exhibit F).
- 3) On 06-28-05, the Agency received a form reporting the child had been removed from Appellant's custody 02-24-05. The form was not on CSB letterhead and was not signed by a CSB representative (See Exhibit C).
- 4) The Agency determined the Appellant had not timely reported the change in her household composition, i.e., CSB's removal of her child from her custody on 02-24-05. The result was OWF and food stamp overpayments caused by inadvertent household error (IHE).
- 5) On 10-14-06, a notice was sent requesting the Appellant repay a \$669 OWF overpayment for the period 03-01-05 to 05-31-05 caused by IHE. She did not timely report her child was removed from her custody by CSB on 02-24-05.
- 6) On 10-14-06, a notice was sent requesting the Appellant repay a \$126 food stamp overpayment for the period 04-01-05 to 05-31-05 caused by IHE. She did not timely report her child was removed from her custody by CSB on 02-24-05.
- 7) At the hearing, the Appellant submitted Juvenile Court Judgment Entry, file-dated 07-19-05, stating that as of the 06-06-05 pre-trial hearing, she (Appellant) had custody of her child until 07-19-05, when CSB received permanent custody.

**CONCLUSIONS OF POLICY**

**Issue #1 (Appeal #1314151 – OWFOP)**

**Policy and Analysis**

STATE HEARING DECISION CONTINUATION

The Appellant received SSI for herself and \$223 monthly OWF for her child (DOB 08-22-04). She attended a reapplication interview on 05-02-05. She reported a change of address and that she was living with another individual. On 06-28-05, the Agency received a form reporting the child had been removed from Appellant’s custody 02-24-05. The origin of this form could not be determined. It was not on CSB letterhead and was not signed by a CSB representative.

The Agency determined the Appellant had not timely reported that CSB removed her child from her custody on 02-24-05. This was the only child on the Appellant’s case. Therefore, when CSB removed this child from the Appellant, there were no other eligible children in her care or custody. The result was an OWF overpayment as follows:

<u>Month</u>	<u>OWF Received</u>	<u>OWF Eligibility</u>
03-05	\$223	\$0
04-05	\$223	\$0
05-05	\$223	\$0
\$669 received minus \$0 OWF eligibility = \$669 overpayment		

On 10-14-06, a notice was sent requesting the Appellant repay the \$669 OWF overpayment for the period 03-01-05 to 05-31-05 caused by IHE.

The Appellant did not remember applying for or receiving OWF benefits for this child. She stated she has difficulty remembering and comprehending things because her IQ is 58 (See Exhibit #2). At the hearing, she submitted a Juvenile Court Judgment Entry file-dated 07-19-05 reporting that as of the 06-06-05 pre-trial hearing, she had custody of her child, and that as of 07-19-05 permanent custody was awarded to CSB (See Exhibit #2).

The Agency determined the Appellant had an overpayment based on a form reporting the child was removed from the Appellant’s custody on 02-24-05. The origin of this form cannot be determined as it was not on CSB letterhead and was not signed by a CSB representative. The Appellant effectively rebutted the Agency’s determination she no longer had custody of her child. She submitted a Judgment Entry file-dated 07-19-05 reporting she had custody of her child until 07-19-05 when CSB obtained permanent custody.

Therefore, it is found that the Agency was not correct to request the Appellant repay a \$669 OWF overpayment for the period 03-01-05 to 05-31-05. The Appellant had custody of her child until 07-19-05 per the submitted Judgment Entry and would have been entitled to the OWF grants. The appeal is SUSTAINED.

**Issue #2 (Appeal #1314152 – FSOP)**

**Policy and Analysis**

The Appellant received SSI for herself and \$223 monthly OWF for her child (DOB 08-22-04). She attended a reapplication interview on 05-02-05. She reported a change of address and that she was living with another individual. On 06-28-05, the Agency received a form reporting the child had been removed from Appellant’s custody 02-24-05. The form was not on CSB letterhead and was not signed by a CSB representative.

The Agency determined the Appellant had not timely reported that CSB removed her child from her custody on 02-24-05. This resulted in a food stamp overpayment for the period 04-01-05 to 05-31-05 as follows:

STATE HEARING DECISION CONTINUATION

<u>Month</u>	<u>Allotment</u> <u>Received</u>	<u>Correct</u> <u>Allotment</u>	<u>Overpayment</u>
04-05	\$73 minus	\$10	= \$63
05-05	\$73 minus	\$10	= <u>\$63</u>
			\$126 total

On 10-14-06, a notice was sent requesting the Appellant repay the \$126 food stamp overpayment for the period 04-01-05 to 05-31-05 caused by IHE.

At the hearing, the Appellant submitted a Judgment Entry from Juvenile Court file-dated 07-19-05 reporting that as of the 06-06-05 pre-trial hearing, she had custody of this child, and that as of 07-19-05 permanent custody was awarded to CSB (See Exhibit #2).

The Agency determined the Appellant had an overpayment based on a form reporting the child was removed from the Appellant's custody on 02-24-05. The origin of this form cannot be determined as it was not on CSB letterhead and was not signed by a CSB representative. The Appellant effectively rebutted the Agency's determination she no longer had custody of her child. She submitted a Judgment Entry file-dated 07-19-05 reporting she had custody of her child until 07-19-05 when CSB obtained permanent custody.

Therefore, it is found that the Agency was not correct to request the Appellant repay a \$126 food stamp overpayment for the period 04-01-05 to 05-31-05. The Appellant had custody of her child until 07-19-05 per the submitted Judgment Entry and would have been entitled to the food stamps she received. The appeal is SUSTAINED.

**HEARING OFFICER'S RECOMMENDATIONS**

**Issue #1 (Appeal #1314151 – OWFOP)**

**Issue #2 (Appeal #1314152 – FSOP)**

Based on the record before me, I find the appeals should be SUSTAINED.

The Agency is directed to void both the 10-14-06 notice requesting repayment of a \$669 OWF overpayment for the period 03-01-05 to 05-31-05 and the 10-14-06 notice requesting repayment of a \$126 food stamp overpayment for the period 04-01-05 to 05-31-05. The Appellant submitted evidence at the hearing that effectively rebutted the Agency's determination that she was not entitled to the OWF and food stamp benefits she received during the alleged overpayment periods.

**FINAL ADMINISTRATIVE DECISION AND ORDER**

Finding the Hearing Officer's decision to be supported by the evidence, the recommendations above are adopted, and the appeals are SUSTAINED.

Hearing Authority

January 30, 2007

## STATE HEARING DECISION CONTINUATION

### Notice to Appellant

This is the official report of your hearing and is to inform you of the decision and order in your case. All papers and materials introduced at the hearing or otherwise filed in the proceeding make up the hearing record. The hearing record will be maintained by the Ohio Department of Job and Family Services. If you would like a copy of the official record, please telephone the hearing supervisor at the TOLEDO District hearing section at 1-866-635-3748.

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, OH 43218-2825 or fax: (614) 728-9574. Your request should include a copy of this hearing decision and an explanation of why you think it is wrong. Your written request 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 may request a free copy of the tape recording of the hearing by contacting the district hearings section.

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.

**Appendix**

**EXHIBITS**

**Agency**

- A) The JFS 04067 Appeal Summaries for OWF and food stamps and the Investigative Work Sheet (3 pages).
- B) The 07-01-05 Agency Investigation Assistance Request and Complaint Form.
- C) The 06-25-05 Notice to Lucas Job & Family Services of Removal of Child.
- D) The JFS 07095 Overpayment Determination Form, CRIS-E IQCH Cash Issuance History for ADCR/02, CRIS-E AEBAB Benefit Determination Budget screen for period 10-01-04 to 05-31-05 and Cash Overpayment Computation for OWF (4 pages).
- E) The JFS 07424 Report of Claim Determination/Lost Benefits, Food Stamp Overissuance Calculation, CRIS-E IQFS Food Stamp Issuance History and CRIS-E AEBFN and AEBFB Food Stamp Budget screens (6 pages).
- F) CRIS-E CLRC Running Record Comments from 11-10-04 to 10-27-06 (7 pages).
- G) CRIS-E BVBR Benefit Recovery Referral for OWF overpayment of \$669 and food stamp overpayment of \$126, CNHD Notice History Detail screen for OWF (BV13) and Food Stamp (BV30) Overpayment Notices sent 10-24-06 (4 pages).
- H) CRIS-E AEIID Individual Demographics, IQCM Case Members History, IQCP Case Profile and CLRC Running Record Comments from case #5064043689 screens (5 pages).

**Appellant**

- 1) JFS 04069 State Hearing Request form with Appellant's hearing request.
- 2) The Court of Common Pleas of Lucas County, Ohio – Juvenile Division Judgment Entry file-dated 07-19-05 (4 pages).