

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

In the matter of:

<u>Case Number:</u>	<u>County:</u>	
5047848022	CUYAHOGA	
<u>Appeal:</u>	<u>Program:</u>	<u>Disposition:</u>
1378750	FS	SUSTAINED
Compliance Required		
Decision Date:	01/09/2008	
Request Date:	10/24/2007	
Hearing Officer:	LYNNE SOLAK	

State Hearing Decision

ISSUE:

I (APPEAL 1378750, FOOD STAMPS)

The appellant has been in receipt of Food Stamps. The agency recently proposed to terminate the appellant's Food Stamps for two reasons: first, she allegedly failed to verify her income from her new employment, and second, she allegedly failed to attend two scheduled face to face interviews. Is the proposed termination of Food Stamps correct?

The proposed termination is incorrect.

PROCEDURAL MATTERS:

Notice of the proposed termination was issued on 10/10/07. The appellant disputes the and requested a state hearing. The state hearing request (Exhibit 1) was received by the Bureau of State Hearings on 10/24/07. Because of a timely hearing request, the appellant's benefits have continued. The hearing was originally scheduled for 11/13/07. Upon a show of good cause, the hearing was rescheduled and heard on 1/3/08. An appeal summary (Exhibit A) was received from the agency on 11/13/07. The appellant represented herself at the hearing; the agency was represented by the appellant's caseworker, Pam Thomas (3513), from the Cuyahoga County Department of Job and Family Services.

FINDINGS OF FACT:

1. The appellant has been in receipt of Food Stamps.
2. In 9/07 the agency received information that the appellant had gained employment.
3. The agency received an employer's statement in 10/07, but there were discrepancies with regard to the appellant's name.
4. The agency proposed termination of the appellant's Food Stamps in 10/07, with notice being issued on 10/10/07.
5. The agency verbally scheduled a face to face interview for 10/26/07 to discuss the employer's statement, but did not send a written letter informing the appellant of the appointment.
6. In 10/07, the appellant provided a letter to the agency from her employer indicating that the name discrepancy was an employer error and that it had been corrected.

STATE HEARING DECISION CONTINUATION

7. The agency has all of the employment information necessary to determine the appellant's eligibility for Food Stamps (see Exhibit B).
8. The agency verbally scheduled another face to face interview on 11/14/07, and although they testified they sent a confirmation letter to the appellant, no documentation was submitted to support that testimony.
9. The appellant did not receive a letter for the 11/14/07 appointment.
10. The agency alleges that the appellant's Food Stamp certification ended 11/30/07, but her benefits continue to be received.

CONCLUSIONS OF POLICY:

Policy:

Verification of income is required for Food Stamp eligibility.

The county agency shall use documentary evidence as the primary source of verification. Documentary evidence consists of a written confirmation of an assistance group's circumstances. Although documentary evidence shall be the primary source of verification, acceptable verification shall not be limited to any single type of document and may be obtained through the assistance group or other source. Whenever documentary evidence cannot be obtained or is insufficient to make a firm determination of eligibility or benefit level, the county agency may require collateral contacts and/or home visits. In all cases, the method of verification shall be recorded in the assistance group file. If copies of wage stubs are not included in the assistance group file, the name, address, dates, and gross amounts listed on the wage stubs are the minimum acceptable documentation of wage earners' income.

Where unverified information from a source other than the assistance group contradicts statements made by the assistance group, the assistance group shall be afforded a reasonable opportunity to resolve the discrepancy prior to a determination of eligibility or benefits. The county agency may, if it chooses, verify the information directly and contact the assistance group only if such direct verification efforts are unsuccessful.

A "collateral contact" is an oral confirmation of an assistance group's circumstances by a person outside of the assistance group. The collateral contact may be made either in person or over the telephone. The acceptability of a collateral contact shall not be restricted to a particular individual but may be anyone that can be expected to provide an accurate third-party verification of the assistance group's statements. Examples of acceptable collateral contacts are employers, community action groups, migrant service agencies, landlords, social services agencies, neighbors of the assistance group, or other persons outside the assistance group who can be expected to provide accurate third-party verification. Ohio Admin. Code § 5101:4-2-09 (2006) and 7 CFR § 273.2 (2007)

Applicant assistance groups, shall have face-to-face interviews by qualified county agency staff at all initial certifications and at all reapplications. The county agency may not require assistance groups to report for an in-office interview during their certification period, though they may request assistance groups to do so. Ohio Admin. Code § 5101:4-2-07 (D) (2005) and 7 CFR § 273.2 (2007)

STATE HEARING DECISION CONTINUATION

The hearing officer's findings of fact shall be based exclusively on the evidence introduced at the hearing. It's up to the agency to show "by a preponderance of the evidence, that its action or inaction was in accordance with ODJFS rules." Ohio Admin. Code § 5101:6-7-01 (2006)

Analysis:

The agency has proposed to terminate the appellant's Food Stamps because of two reasons: an alleged failure to provide employment and income information and an alleged failure to attend scheduled face to face interviews. The agency requested employment/income verification from the appellant when they received information of her gain of employment. The agency received an employer's statement shortly after requesting the information, but it showed the appellant's social security number matched with a different name than the agency knew the appellant. The agency requested verification of either the appellant's name change or of the employment information. The appellant provided the agency with a letter from her employer indicating that they had erred and that they have since corrected the appellant's records to match her correct name with her social security number. At this point in 10/07, the agency had all of the income information necessary to determine the appellant's eligibility for Food Stamps as evidenced by the agency's own testimony and the employment screen in the appellant's case record. Given that, the hearing officer finds the proposed termination of Food Stamps due to a failure to provide requested employment/income verifications is incorrect.

But despite the appellant's ongoing cooperation with the agency to provide the requested verifications the agency scheduled to face to face interviews for the appellant, originally to discuss the employment information and address the discrepancies but then allegedly to complete a face to face redetermination interview. But the agency may not require attendance at a face to face interview during a certification period even if it is to discuss discrepancies with employment statements. Rather, the agency should have made collateral contacts with the appellant's employer or, as they did, request clarification from the appellant. Additionally, it's questionable that the appellant was due for a recertification interview because her benefits are continuing to be received and they would not have continued if the certification period had ended 11/30/07 as the agency testified it did. Further, the agency failed to establish that any written notification of the appointments was issued to the appellant. Given that information, the hearing officer is not persuaded that the agency's proposed termination because of missed face to face interviews is correct.

HEARING OFFICER'S RECOMMENDATIONS:

I (APPEAL 1383130, FOOD STAMPS) Based on the record before me, I find the appeal should be SUSTAINED. The proposed termination of Food Stamps is incorrect. The agency should not terminate the appellant's Food Stamps.

FINAL ADMINISTRATIVE DECISION AND ORDER:

I (APPEAL 1383130, FOOD STAMPS) Finding the hearing officer's decision to be supported by the evidence, the recommendations above are adopted.

COMPLIANCE IS REQUIRED Food Stamps: Ohio Admin. Code § 5101:6-7-03(B)(1)(b) requires compliance with this decision within ten calendar days of receipt, even if the Agency must provide a supplement outside the normal issuance cycle. Compliance shall be promptly reported to ODJFS, Bureau of State Hearings, via JFS 04068, compliance form, accompanied by supporting documentation. (2003)

STATE HEARING DECISION CONTINUATION

Hearing Authority

January 9, 2008

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 CLEVELAND 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

Appellant's Exhibits:

1. Hearing request (1 page)

CDJFS Exhibits:

- A. Appeal summary (1 page)
- B. AEIEI Employment screen (1 page)

Papers and Effects:

Miscellaneous documents submitted by the agency (7 pages)