

## STATE HEARING DECISION

ODHS 4005 (Rev. 9/94)

County <b>FRANKLIN</b>	District Hearings Section <b>COLUMBUS</b>	Assistance Group Name		Assistance Group Number
Place of Hearing <b>FRANKLIN CDHS</b>	Initial Hearing Date <b>01/29/2001</b>	Rescheduled Postponed to	Rescheduled Postponed to	Rescheduled Postponed to

Appellant/Representative	Appellant Representation
	Local Agency Representation <b>Joey, Foster, CDJFS representative</b>

Date Notice Mailed <b>12/04/2000</b>	Date Received by Local Agency	Date Received by ODHS <b>01/11/2001</b>	Date Appeal Summary Received <b>01/29/2001</b>	Date Scheduling Notice Mailed <b>01/19/2001</b>
Appeal Number(s)/Program(s) <b>1001410/UNK</b>				

### 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 COLUMBUS District hearing section at 1-800-686-1568.

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 43266-0423 or FAX (614) 752-8298. 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 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 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.

### ISSUE SECTION

Was the Franklin County Department of Jobs Family Services' (CDJFS) 12-4-00 denial of a 12-1-00 application correct? Notice was mailed on 12-4-00 denying a 12-1-00 application for public assistance due to failure to cooperate in establishing eligibility. However, the CDJFS representative admitted that the CDJFS denied the application for a different reason, that the appellant did not fail to cooperate, and that the CDJFS did not explore eligibility for the alien medical emergency assistance. After thoroughly reviewing and considering all testimony and evidence admitted, this Hearing Officer found that the CDJFS's action or inaction and 12-4-00 denial were not correct and were not in accordance with policy and rules. Thus, this Hearing Officer recommended that the appeal (number 1001410) be SUSTAINED.

LJH

Appeal(s) <b>SUSTAINED 1001410</b>	Date Issued <b>02/02/2001</b>	Compliance <b>1001410</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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## **PROCEDURAL MATTERS**

1. The Ohio Department of Job & Family Services (ODJFS), Bureau of State Hearings (BSH) received the hearing request on 1-11-01 and identified 1-11-01 as the official hearing request date. The BSH assigned the following appeal numbers to the hearing request: 1001410 (Unknown).
2. The Columbus Hearing Section (CHS) received the hearing request on 1-16-01 and generated a State Hearing Scheduling Notice on 1-19-01. The state hearing was scheduled for and heard on 1-29-01.
3. The 1-29-01 hearing was conducted as a face-to-face hearing with the appellant. A CDJFS representative, who does not have first hand knowledge about the case, participated in the hearing by way of telephone. A CDJFS appeal summary was received.

## **FINDINGS OF FACT**

### **Undisputed Facts**

1. The appellant submitted an application for public assistance on 12-1-00. The household size is five.
2. The applicant was denied. The denial notice mailing date was 12-4-00. The denial notice said that the application was denied because of failure to cooperate in establishing eligibility.
3. However, the denial of the application and benefits was different from what the notice said. The denial notice said that the application was denied for failure to cooperate in establishing eligibility. And, the CDJFS representative admitted that the appellant did not fail to cooperate. The representative also admitted that the application was in fact denied because the appellant's 'Permanent Resident Card' categorizes the appellant as DV1 which means that a sponsor agreed to support the appellant in order for the appellant to be allowed to enter the United States. The representative admitted that he does not know if eligibility for the alien medical emergency assistance was explored and that the interpretation of the new alien medical emergency program is unclear.
4. Although the appellant did not fail to cooperate, the CDJFS authorized on 12-4-00 that a notice of denial be sent for failure to cooperate.

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### **Disputed Facts**

1. None

### **CONCLUSIONS OF POLICY**

#### **Policy**

1. Ohio Administrative Code (OAC) section 5101:6-7-01(C)(1)(c) states that it shall be the responsibility of the agency to show, by a preponderance of the evidence, that its action or inaction was in accordance with ODJFS rules.
2. OAC section 5101:1-2-01 (A) states, in relevant part, that administrative duties shall be performed in such a manner as to secure for every assistance group the full amount of aid to which it is legally entitled according to program relations.
3. OAC section 5101:1-2-10 states, in relevant part, that the CDJFS is responsible for determining eligibility for all public assistance programs and the CDJFS is responsible for documenting and recording each eligibility determination.
4. OAC sections 5101:6-2-03 states that when an agency denies an application from public assistance (which includes Ohio Works First, Medicaid) or food stamps, the assistance group need to be promptly notified in writing of the decision. The notification must contain a clear and understandable statement of the action of the agency and the reasons for it.

#### **Analysis**

Policy requires that the CDJFS provide substantial evidence at the hearing to support their action or inaction. Further, policy requires that, when a person is denied Ohio Works First, Medicaid, and food stamps, she/he is entitled to a written notification that contains a clear and understandable statement of the action taken by the agency and the reasons for it. In this case, the appellant did not fail to cooperate in establishing eligibility. And, the CDJFS, through its own admission, denied the application for reasons not stated on the prior notice. Since the reason stated on the notice and the true reason for the denial of benefits are different, this Hearing Officer concludes that the CDJFS has failed to show by a preponderance of the evidence that its action or inaction and the 12-4-00 denial are correct. Therefore, this Hearing Officer further concludes that the CDJFS's 12-4-00 denial is not

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correct.

**HEARING OFFICER'S RECOMMENDATIONS**

Based on the record before me, I find the appeal number 1001410 should be SUSTAINED. The CDJFS shall reopen the 12-1-00 application. The CDJFS shall determine eligibility for all programs. If the CDJFS needs clarification, the CDJFS shall seek clarification via the proper procedures. If the CDJFS needs additional verification/clarification from the appellant, the CDJFS shall notify the appellant in writing of the needed information and provide the appellant with a reasonable opportunity to provide the information via the proper procedures. The CDJFS shall notify the appellant of the correct decision and right of appeal via the proper procedures.

**FINAL ADMINISTRATIVE DECISION AND ORDER**

Finding the hearing officer's decision to be support by the evidence, the recommendations above are adopted. Appeal number 1001420 is SUSTAINED.

Compliance required. OAC sec. 5101:6-7-03.

**APPENDIX**

Agency Exhibits

A. Appeal summary and documents

Appellant Exhibits

1. Permanent residence card, Social Security Administration determination, letter from doctor, medical information

Date Issued: 02/02/2001