

STATE HEARING DECISION

ODHS 4005 (Rev. 9/94)

County STARK	District Hearings Section CANTON	Assistance Group Name		Assistance Group Number
Place of Hearing STARK CDHS	Initial Hearing Date 01/29/2001	Rescheduled Postponed to	Rescheduled Postponed to	Rescheduled Postponed to

Appellant/Representative	Appellant Representation
	Local Agency Representation Nan Pickelsimer - Case Worker, Mary Hall - CSEA Supervisor

Date Notice Mailed 11/22/2000	Date Received by Local Agency 01/08/2001	Date Received by ODHS 01/11/2001	Date Appeal Summary Received 01/10/2001	Date Scheduling Notice Mailed 01/19/2001
Appeal Number(s)/Program(s) 1001518/FS, 1001519/MED				

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 CANTON District hearing section at 1-800-686-1569.

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

Issue #1 Appeal 1001518 Food Stamps

On 11/1/00, the agency removed the appellant from the Food Stamp case and imposed a six month sanction, because the appellant failed to comply with the Self Sufficiency Contract. The agency's action was upheld as the Hearing Officer found that the agency's action was in accordance with regulations.

Issue #2 Appeal 1001519 Medicaid

On 11/1/00, the agency removed the appellant from the OWF Related Medicaid case and imposed a six month sanction, because the appellant failed to comply with the Self Sufficiency Contract. The agency's action was not upheld as the Hearing Officer found that the agency's action was not in accordance with regulations.

MBR

Appeal(s) OVERRULED 1001518 SUSTAINED 1001519	Date Issued 02/02/2001	Compliance 1001519
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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.)*

Appeal Number(s) 1001518, 1001519

PROCEDURAL MATTERS

On 9/22/00, the agency mailed the proposed sanction notice which was effective 11/1/00. The appellant requested a hearing on 1/8/01. On 1/19/01, a notice was mailed to the appellant setting a 1/29/01 hearing date. The agency's appeal summary was received on 1/10/01.

FINDINGS OF FACT

Undisputed Facts

1. The appellant signed Self Sufficiency Contracts on 9/8/99, 3/1/00, and 5/2/00 agreeing to cooperate with the Child Support Enforcement Agency (CSEA) in establishing paternity and securing child support.
2. On 1/26/00 a notice was mailed to the appellant setting a 2/15/00 genetic testing appointment. The notice was returned on 1/30/00 indicating a new address for the appellant. A second notice was mailed on 8/17/00 setting a 9/5/00 genetic testing appointment. The appellant failed to show for the appointment and the CSEA requested that the appellant be sanctioned for the failure. On 9/22/00, the agency proposed the Food Stamp and Medicaid sanctions and the sanctions were imposed effective 11/1/00.
3. On 10/10/00, a third notice was mailed to the appellant setting a 11/9/00 genetic testing appointment. The appellant showed for the testing; however, the alleged father did not show. On 12/7/00, the appellant was mailed a notice setting a 2/22/01 court hearing.
4. The appellant believes that this is only her second sanction. The agency was unable to offer testimony nor documentation of the previous sanctions. The agency had also proposed to close her Food Stamp case for her children; however, that issue has been resolved and the Food Stamps issued. The appellant claims to have medical problems and needs medical coverage so that she can receive the medical treatment that she needs.
5. There was no testimony nor documentation that would indicate that the agency conducted a pre termination review for Medicaid prior to the 11/1/00 termination.

CONCLUSIONS OF POLICY

Policy

ORC 5107.16 (C) instructs the Hearing Officer to base the state hearing decision on the county's standards of good cause.

Appeal Number(s) 1001518, 1001519

ORC 5107.16 (A) mandates that failure to comply with the Self Sufficiency Contract shall result in the imposition of a sanction set forth in ORC 5107.16 (A) (1), OAC 5101:4-3-11 (H), and 7CFR 273.7 which removes the individual from the Food Stamp case and removes the individual from the Medicaid unless eligible for medical assistance pursuant to another division of section 5111.01 of the Revised Code for six months or until the failure ceases, whichever is longer.

OAC 5102:1-38-011 (A) provides that if the individual is ineligible for Medicaid under their current category, the agency is required to complete a pre termination review of continued Medicaid eligibility.

OAC 5101:6-3-02 (B) (1) provides that an individual has 90 calendar days, beginning the day after the notice of the action is mailed, to request a state hearing.

OAC 5101:6-7-01 (C) (1) (c) mandates that it shall be the responsibility of the agency to show, by the preponderance of the evidence, that its action was in accordance with regulations.

ANALYSIS

After careful consideration of the evidence and law presented at the hearing, the Hearing Officer finds that the agency mailed the sanction notice on 9/22/00 and the appellant requested a hearing on 1/8/00. The 90 days began on 9/23/00 and ended on 12/21/00. Since regulations stipulate that the appellant only has ninety days in which to request a hearing, the appellant is past that time frame and the merits of the sanction can not be heard. However, the secondary issue regarding the Food Stamps has been resolved and the appellant's request for a hearing essentially asserts that she needs medical coverage. While it is true that the appellant is under a sanction for the OWF Related Medicaid, there was nothing presented at the hearing that would lend this Hearing Officer to believe that the agency conducted a pre termination review of her Medicaid eligibility prior to imposing the sanction. Thus, this issue is remanded back to the agency for that purpose.

HEARING OFFICER'S RECOMMENDATIONS

Issue #1 Appeal 1001518 Food Stamps

Based on the record developed at the hearing, the Hearing Officer recommends that the appeal be overruled as the agency's action was in accordance with regulations.

Issue #2 Appeal 1001519 Medicaid

Based on the record developed at the hearing, the Hearing Officer recommends that the appeal be sustained as the Hearing Officer found that the agency's action was not in accordance with regulations. As to assure that the appellant receives the full amount of benefits that she is entitled to receive, the

Appeal Number(s) 1001518, 1001519

agency is directed to conduct a PTR review to determine if the appellant is eligible for any other Medicaid program and, if eligible, reinstate Medicaid effective 11/1/00. If subsequent to this hearing decision the appellant is adversely affected, she retains full hearing rights.

FINAL ADMINISTRATIVE DECISION AND ORDER

Issue #1 Appeal 1001518 Food Stamps

Finding the Hearing Officer's decision to be supported by the evidence, the recommendations above are adopted, and the appeal is OVERRULED.

Issue #2 Appeal 1001519 Medicaid

Finding the Hearing Officer's decision to be supported by the evidence, the recommendations above are adopted, and the appeal is SUSTAINED. The agency is required to comply with the terms set forth in the Hearing Officer's recommendation above. OAC Rule 5101:6-7-03(B)(1)(a) requires compliance with this decision within fifteen calendar days from the date the decision is issued, but in no event later than ninety calendar days from the date of the hearing request. Compliance shall be promptly reported to the Bureau of State Hearings, ODJFS, via "State Hearing Compliance", ODJFS 4068, accompanied by appropriate documentation.

EXHIBITS

- A. Self Sufficiency Contract
- B. Case profile
- C. Running record comments
- D. Notice history
- E. CSEA notices

Date Issued: 02/02/2001