



# Ohio Department of Job and Family Services

## Administrative Appeal Decision

**APPELLANT:**

**CASE NO.**

**APPEAL No(S).** 1151267

**DOCKET No.** 2004-AA-0107

By request received February 2, 2004, Appellant has requested an Administrative Appeal of a state hearing decision rendered January 21, 2004. The issue raised on this Administrative Appeal is whether the Cuyahoga County Child Support Enforcement Agency (Agency) was correct in proposing the termination of a Child Support (CS) Order and to refund \$1,025.56 of payment collected. The state hearing decision found that Agency action is correct and overruled the appeal. This Administrative Appeal Decision Affirms the state hearing decision.

### SUMMARY OF CASE

The hearing record indicates Appellant is the obligor of CS benefits through Agency in compliance with a CS Order issued November 3, 1999. The Morgan County Court of Common Pleas issued an order December 2, 2002, instructing that the CS obligation of Appellant be released as of March 1, 2001, and that payment withheld for support and care since March 1, 2001, and held in escrow be released. Agency determined that arrearage was owed for the period from November, 1999, through the termination of the CS Order effective March 1, 2001. Agency determined that Appellant paid a total of \$7,823.50 in CS during the period of November 3, 1999, through February 28, 2001, and that the CS obligation for payment for that period was \$6,796.94. The result is that Agency owes Appellant a refund of \$1,025.56. Agency provided evidence that a refund was processed January 12, 2004, in the amount of \$1,025.56.

### HEARING DECISION

The state hearing decision found that Agency correctly calculated the amount of CS benefits withheld including the arrearages and administrative fees and that Appellant is entitled to the refund of the amount as calculated by Agency, and that it was proper to terminate the CS Order.

### REQUEST FOR ADMINISTRATIVE APPEAL

Appellant submitted the pre-printed Administrative Appeal Request which asserts the hearing decision relies upon a misapplication of law or rule. Appellant asserts Agency had custody of the minor child for only a short time, from November, 1999, through January, 2000. Appellant asserts Agency is not entitled to keep CS benefits because Agency did not have custody of the child.

### ANALYSIS

Ohio Administrative Code (OAC) 5101:6-8-01 allows for an Administrative Appeal from a state hearing decision. The Administrative Hearing Examiner is required to examine the decision, the information supplied on appeal and the record and/or tape of the hearing if appropriate. If the initial decision contains no error that affects the outcome of the appeal the decision is to be affirmed. If the decision contains an error that resulted in an outcome adverse to the individual the decision is to be reversed. The CS Order was in place from November, 1999, through March 1, 2001. During that time it was determined that Appellant was required to make payments of CS at a rate of \$96.73 per week plus an administrative fee, and that those payments were to be paid through Agency. When payments are not made, arrearage accrues, for which the obligor remains obligated to pay.

Appellant argues that Agency is only authorized to retain payments during a time when the Agency has actual custody of a child for whom Agency collects and disburses CS benefits. This is clearly erroneous. It was the responsibility of Agency to collect and disburse to the appropriate party CS in accordance with the CS Order. Agency provided evidence to support a finding that, during the pendency of the CS Order Appellant was obligated to make payments totaling \$6,796.94 through Agency to be distributed to the custodial parent and to Agency for administrative fees. Agency determined that Appellant made payment of \$7,823.50, which is \$1,025.56 more than required. Agency proposed to refund that amount and provided evidence that a refund of that amount was made to Appellant January 12, 2004.

I cannot find that the state hearing decision is contrary to the weight of evidence presented or that the state hearing decision relies upon a misapplication of law or rule.

DECISION

The state hearing decision regarding the termination of a CS Order and the accounting of distribution of CS paid and related to Appeal Number 1151267 is AFFIRMED.

\_\_\_\_\_  
James R. Skidmore, Attorney-at-Law  
Administrative Hearing Examiner

\_\_\_\_\_  
Marcia K. Slotnick, Attorney-at-Law  
Chief Administrative Hearing Examiner  
Office of Legal Services on behalf of  
Thomas J. Hayes, Director

DATE OF ISSUANCE February 6, 2004

This Administrative Appeal Decision is the final administrative decision on your case from the Ohio Department of Job and Family Services.

cc: Director, Morgan County Department of Job and Family Services  
Dorothy Smith, Office of Legal Services  
Hearings Supervisor  
Bureau of State Hearings  
David Fleischman  
Appellant