



# Ohio Department of Job and Family Services

## Administrative Appeal Decision

**APPELLANT:****CASE NO.****APPEAL NO(S).** 1154944, 1154945 &  
1154946**DOCKET NO.** 2004-AA-0124

By request received February 5, 2004, Appellant has requested an Administrative Appeal of a state hearing decision rendered January 27, 2004. The issue raised on this Administrative Appeal is whether the Trumbull County Department of Job and Family Services (Agency) was correct in proposing to terminate Ohio Works First (OWF) benefits and to reduce Food Stamp (FS) benefits based upon a failure to comply, without establishing good cause, with the provisions of a Self-Sufficiency Contract (SSC). The state hearing decision found that good cause was not established and overruled the appeal. This Administrative Appeal Decision vacates and remands the state hearing decision.

### SUMMARY OF CASE

The hearing record indicates that Appellant receives OWF, FS and Medicaid benefits through Agency on behalf of an assistance group (AG) including Appellant and one child. Appellant signed the SSC on October 22, 2003. On the same day, he signed a document entitled "Notification Requirements – Good Cause." Because of injuries which prevented him from doing the same kind of work he had previously done, Appellant was required to attend Hillside Vocational Rehabilitation (Hillside) and complete an Independent Living packet at home to be sent back to the Agency.

A packet with the Independent Living forms was mailed to Appellant on October 27, 2003. It was returned to the Agency, and the Agency remailed the packet to the Appellant on October 31, 2003. It was due by November 7, 2003.

On November 14, 2003, Appellant had an appointment for testing scheduled at Hillside. He called that day to report that he had a job interview at 9:45 a.m. On December 4, 2003, the Agency received progress notes and a message from Hillside indicating that Appellant's

attendance had been sporadic. Appellant stated that the reason for this was that he was applying for various jobs and had interviews. On December 15, 2003, the Agency received an e-mail stating that Appellant had not sent in his packet that was due November 7, 2003. Appellant also did not attend an appointment at Hillside on December 12, 2003 because he had a job interview.

The Agency proposed to terminate OWF benefits and to reduce FS benefits through the removal of Appellant from the FS assistance group for purposes of calculating benefits.

#### HEARING DECISION

The state hearing decision found that Appellant did not establish good cause because he missed appointments at Hillside due to job interviews, and the Agency's good cause policy does not include job interviews as good cause for missing appointments.

#### REQUEST FOR ADMINISTRATIVE APPEAL

Appellant submitted the pre-printed Administrative Appeal Request which asserts that the hearing decision relies upon a misapplication of law or rule.

#### ANALYSIS

On October 22, 2003, Appellant signed a document entitled "Notification Requirements – Good Cause." In this document, Appellant agreed that it was his responsibility to provide good cause for any activity in the Trumbull County Human Services Employment Program that he does not participate in. However, this document does not describe the Agency's good cause policy or specify the circumstances that would constitute good cause for nonparticipation in an employment program. The Agency's good cause policy is not included in the record below.

Ohio Revised Code (ORC) 5107.16(B) provides that "[e]ach county department of job and family services shall establish standards for the determination of good cause for failure or refusal to comply in full with a provision of a self-sufficiency contract." ORC 5107.16(C) states: "When a state hearing...or an administrative appeal...is held regarding a sanction under this section, the hearing officer, director of job and family services, or director's designee shall base the decision in the hearing or appeal on the county department's standards of good cause for failure or refusal to comply in full with a provision of a self-sufficiency contract, if the county department provides the hearing officer, director, or director's designee a copy of the county department's good cause standards."

In this matter, the Agency did not provide the state hearing officer or Appellant with a copy of

its good cause standards at the state hearing. The tape of the state hearing reveals that the Agency did not have a copy of the good cause statement available at the time of the hearing. The Agency representative stated that this document was on “document imaging” and it would be necessary to print it out and send it to the hearing officer after the conclusion of the hearing. Although the state hearing officer allowed the Agency to submit the good cause statement after the hearing, no such document appears in the state hearing record.

OAC 5101:6-6-02(C)(10) requires a state hearing officer to develop “the fullest possible record upon which to base all necessary findings of fact.” Under this rule, each party must be treated fairly and impartially and be given adequate opportunity to address the issues. OAC 5101:6-6-02(C)(11) requires that the state hearing officer determine whether a sufficient record has been established to make a decision. If a sufficient record has not been developed, “the hearing officer may either order that the hearing be continued to a later date or leave the record open for the submission of additional evidence.” *Id.* If the record is to be left open for the submission of documentary evidence, the hearing officer shall establish a deadline for its submission. OAC 5101:6-6-02(C)(11)(c). If the additional evidence is submitted prior to the deadline, it must be forwarded to the other party with a notice of the deadline for response. OAC 5101:6-6-02(C)(11)(d). If the additional evidence is submitted after the deadline, it shall not be considered in coming to a decision. *Id.* Furthermore, “[w]hen the record has been left open for submission of additional evidence by the agency, the individual shall always be afforded the right to rebut such evidence in person at a reconvened hearing if he or she chooses.” OAC 5101:6-6-02(C)(11)(e).

The state hearing decision does not indicate whether the record was left open for the submission of the Agency’s good cause policy. The hearing tape reveals that the Agency was allowed to submit the good cause policy after the hearing. However, there is no indication from the hearing tape or record that a deadline was imposed on the Agency for doing so. Even if the Agency had submitted this evidence after the hearing, the record does not establish that the good cause policy was ever forwarded to the Appellant, or that Appellant was ever given the opportunity to rebut this additional evidence in accordance with OAC 5101:6-6-02(C)(11)(e). Appellant did not have the opportunity to review the Agency’s good cause policy at the state hearing or explain why his actions did constitute good cause under the Agency’s policy.

Because the state hearing record in this matter does not include a copy of the Agency’s good cause standards, the record is insufficient to review whether Appellant had good cause for noncompliance with the provisions of a Self-Sufficiency Contract. A proper determination of good cause must await the submission of a copy of the Agency’s good cause standards and an

opportunity for Appellant to explain why he had good cause under those standards.

DECISION

Although Appeal Number 1154944 was assigned for Appellant's Medicaid benefits, the Agency took no negative action on Medicaid. Accordingly, no further action shall be taken in this proceeding on Appeal Number 1154944.

The state hearing decision regarding a proposed termination of OWF and reduction of FS benefits related to Appeal Numbers 1154945 and 1154946 is VACATED and REMANDED to the state hearing officer for further proceedings in accordance with the findings of this Administrative Appeal Decision. The state hearing officer should convene a supplemental hearing for the purpose of submitting the Agency's good cause standards and allowing Appellant to explain why he had good cause for noncompliance with work activities under those standards. If the Agency has taken any action as a result of the decision in this case, either terminating or reducing benefits, those benefits shall be restored until the issuance of a supplemental or new hearing decision as the request for state hearing was timely filed. Appellant shall retain all rights of appeal from the resulting state hearing decision.

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Karen Lazorishak, Attorney-at-Law  
Administrative Hearing Examiner

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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 18, 2004

This Administrative Appeal Decision is the final administrative decision on your case from the Ohio Department of Job and Family Services. If you disagree with this decision, you may have the right to appeal to common pleas court pursuant to Section 5101.35 of the Ohio Revised Code. Your appeal must be filed within thirty days of the date this decision was issued to you. If you have questions about appealing to a court, contact your attorney, local legal aid society, or bar association. If you want information about free legal services, you can call the Ohio State Legal Services Association, toll free, at 1-800-589-5888.

cc: Director, Trumbull County Department of Job and Family Services  
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Bureau of State Hearings  
Rick Keefer / Ann Shane  
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Appellant