

**IN THE OHIO DEPARTMENT OF JOB AND FAMILY SERVICES
BUREAU OF STATE HEARINGS
ADMINISTRATIVE APPEAL SECTION**

IN RE APPEAL OF:

DOCKET NO.	2006-AA-0154
APPEAL NO(S).	1256786 / MED 1256787 / OWF
AG NO. HEARING REQUEST DATE:	11/06/2005
HEARING DECISION DATE:	01/31/2006 / TMD
APPEAL REQUEST DATE:	02/13/2006
AGENCY:	Hamilton CDJFS

Administrative Appeal Decision

The Appellant requests an administrative appeal of the State hearing decision issued on January 31, 2006. The state hearing decision overruled the Appellant's Ohio Works First and Medicaid appeal, finding that the Hamilton County Department of Job and Family Services (Agency) correctly proposed a second occurrence sanction of the Appellant's benefits for failure to cooperate with child support. In her administrative appeal the Appellant states that she had good cause for her failure to cooperate with child support because she had been abused by her child's father, but she did not testify to this because she was uncomfortable discussing the issue in front of the Agency workers. The Appellant stated that she had police documents that were evidence of the domestic violence and were accepted as good cause in Michigan before she moved.

The Appellant agreed to cooperate with child support as part of her Personal Responsibility Agreement signed on 08/31/05. The CSEA scheduled an appointment for 09/06/05. The Appellant did not attend the appointment. The appointment was rescheduled for 09/27/05 and again the Appellant did not attend. The Appellant stated at the hearing that she initiated the contact with the CSEA and was willing to pursue child support at this time. The Appellant indicated that she provided good cause to Michigan for not pursuing paternity and support for her child, but said that now that she was in Ohio she felt she could pursue support from the child's father. The Appellant did not discuss the issue of domestic violence at the hearing.

An administrative appeal review is limited to the record established at the state hearing. At the state hearing, the Appellant indicated that she was at fault for failing to attend the scheduled appointments and indicated that she was willing to pursue support against her child's father. We do not doubt that the Appellant was the victim of domestic violence and, if she still feels that she has good cause not to cooperate, the Appellant should provide that documentation to the CSEA. However, the Appellant never alleged good cause to the Agency or at the state hearing. The Appellant failed to attend two consecutive CSEA appointments and therefore failed to cooperate as required¹. Based upon the information available, the Agency's proposed sanction is correct.

At the hearing the Appellant requested that the Medicaid benefits be continued and indicated that she was willing to cooperate with the CSEA. Ohio Admin. Code 5101:1-38-02.2(F) states:

A caretaker relative who is a medicaid recipient and who fails to cooperate in the assignment of medical support for an individual who is a member of the caretaker relative's medicaid assistance group, shall be ineligible for any category of medicaid, unless the caretaker relative had good

¹ Ohio Admin. Code 5101:1-29-962(B)

cause as set forth in paragraph (D) of rule 5101:1-29-962 of the Administrative Code.

(a) The caretaker relative remains ineligible for medicaid until such time as he or she does cooperate in the assignment of medical support as determined by the CSEA.

(b) There is no minimum ineligibility period for the ineligible caretaker. The ineligible caretaker must be permitted to cooperate and regain eligibility immediately .

The Appellant, therefore, should have had her Medicaid eligibility restored as soon as she cooperated with child support.

DECISION

Accordingly we must ORDER that:

1. The hearing decision be AFFIRMED, but COMPLIANCE issue to the Agency to reinstate the Appellant's Medicaid benefits if the Appellant has since cooperated with the CSEA or established good cause for non-cooperation.
2. The agency is directed to send the Appellant written notice of the action taken as a result of this decision via an ODJFS 4074, 4065, 7334, 7401, 4701 or other appropriate state form. The agency is to attach a copy of this notice to the ODJFS 4068 State Hearing Compliance form. The Appellant retains all state hearing rights regarding any future agency determination.



Margaret Adams
Administrative Appeal Officer

CONCUR:



Robert J. Frankart
Administrative Appeal Officer



Chris Barley, Attorney-at-Law
Chief Administrative Hearing Officer

DATE OF ISSUANCE February 28, 2006

This Administrative Appeal decision is the final decision on this appeal from the state department of job & family services. It is binding on the department and agency, unless it is reversed or modified on appeal to the court of common pleas.

An Appellant who disagrees with this decision may appeal it to the court of common pleas pursuant to sections 119.12 and 5101.35(E) of the Revised Code. The Appellant shall mail a notice of appeal to the department at the following address:

**Ohio Department of Job & Family Services
Office of Legal Services
30 E. Broad Street, 31st Floor
Columbus, OH 43215-3414**

The Appellant must also file the notice of appeal with the court of common pleas in the county in which the Appellant resides (Franklin County, if the Appellant does not reside in Ohio). Please note: Both the mailing to the department and the filing with the court must occur within thirty (30) calendar days of the date of issuance of this decision.

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, Hamilton County Department of Job and Family Services
Hearings Supervisor, TMD, Bureau of State Hearings, Mary Mynatt
Mark McConnell, Ann Kniep, Karen Ernes, Beth Kowalczyk, Melissa Maynard
Appellant