

**OHIO DEPARTMENT OF JOB AND FAMILY SERVICES
BUREAU OF STATE HEARINGS**

ADMINISTRATIVE APPEAL SECTION

In Re Appeal of:

Docket Number:	AA-779	
Appeal No(s)	1319219	MED
	1319220	DFA
	1319221	FS
AG No.	5064857187	
Hearing Request Date:	11/27/2006	
Hearing Decision Date:	01/25/2007 / EAT	
Appeal Request Date:	01/31/2007	
Agency:	PORTAGE CDJFS	

Administrative Appeal Decision

The appellant is appealing an October 2006, agency denial of his September applications for food stamps and Medicaid for the Disabled. The agency also denied in November his application for Disability Financial Assistance. The hearing officer sustained the food stamp and Medicaid appeals, finding that the agency had erred in concluding that the appellant failed to cooperate in verifying his resources.¹ She overruled the Disability Financial appeal, though, agreeing with the agency that the appellant's average monthly earned income of \$323 exceeded the program standard of \$115.

In his request for administrative appeal the appellant asserts a Statement of Error that the hearing decision is contrary to the weight of the evidence presented at the hearing regarding his disability and the fact that his only income is from seasonal lawn mowing.

In regard to the Medicaid and food stamp appeals, the hearing officer found that the appellant had made his best efforts to provide the requested verification of his resources, and thus directed the agency to proceed to make a substantive eligibility determination. We hold that this determination was in accordance with the applicable rules and the evidence.² We also find that the agency should be providing the appellant SSI Case Management services in support of his pending SSI application.³

In regard to the Disability Financial appeal, "The determination of eligibility for the DFA assistance group is dependent upon the amount of income received by the family group."⁴ "Unless

¹ The caption of the hearing decision erroneously inverted the dispositions of the Medicaid and Disability Financial appeals.

² OAC 5101:4-2-07

³ OAC 5101:1-5-60(I)

⁴ OAC 5101:1-5-40(A)(4)

specifically listed as exempt income..., all earned income (less appropriate earned income disregards) and unearned income is considered as nonexempt income and is to be deducted from the payment standard.”⁵ “In situations in which an individual has fluctuating income, the income must first be averaged (as set forth in rule 5101:1-23-20 of the Administrative Code) to arrive at a figure to be converted into monthly income.”⁶ “An individual who operates his own business has earnings from self employment. The gross monthly income from self employment is the total proceeds or gross receipts of earnings minus operating expenses, or the standard deduction ... minus the appropriate earned income disregards ...”⁷ “For the reasons set forth in rule 5101:1-23-20 of the Administrative Code, it may be necessary for the CDJFS to obtain an estimate of gross earnings for the entire taxable year and distribute this figure equally into all months of the taxable year, even if the business is seasonal.”⁸

Once an applicant’s “gross monthly earnings” are determined, this figure is reduced by a \$75 “work expense disregard” and the difference added to any monthly unearned income to arrive at “countable monthly income.”⁹ In the “program eligibility test,” “If the family group’s countable monthly income exceeds the DFA payment standard representing the number of individuals in the family group, the DFA assistance group is ineligible.”¹⁰

In this case, the appellant’s 2005 tax return indicated net business income of \$4180, which the hearing officer further reduced by a \$295 self-employment tax, then averaged over 12 months. This computation resulted in the sum of \$323, which exceeds the payment standard of \$115. For this reason, we cannot accept the Statement of Error based on the weight of the evidence. If the appellant has reason to believe that his projected seasonal mowing income may be less than it was in 2005, he should reapply and explain that reason to the agency.

DECISION

We therefore ORDER that the hearing decision is AFFIRMED.

⁵ OAC 5101:1-5-40(C)(1)

⁶ OAC 5101:1-5-40(C)(4)

⁷ OAC 5101:1-5-40(E)(6)

⁸ OAC 5101:1-5-40(E)(6)(d)

⁹ OAC 5101:1-5-40(F)(1),(2); (G)(2)

¹⁰ OAC 5101:1-5-40(F)(2); (G)(2)

Administrative Appeal Officer

CONCUR:

Administrative Appeal Officer

Chief Administrative Hearing Officer

Date of Issuance: February 16, 2007

Notice to Appellant

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 the original 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 a copy of 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, PORTAGE CDJFS
RAMOSD, TRIMBE, Bureau of State Hearings