

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

ADMINISTRATIVE APPEAL SECTION

In Re Appeal of:

Docket Number:	AA-783	
Appeal No(s)	1296793	MED
AG No.	5033917815	
Hearing Request Date:	07/13/2006	
Hearing Decision Date:	10/31/2006 / MPW	
Appeal Request Date:	02/01/2007	
Agency:	FRANKLIN CDJFS	

Administrative Appeal Decision

Appellant is a twenty-one year old man who is living in foster placement through the Franklin County Children's Services. Appellant has "aged out" of the Children's Services system when he turned twenty-one on May 20, 2006. He is currently seeking placement on the Individual Options Waiver on an emergency basis based on a loss of residence. His guardian has requested an administrative appeal of the state hearing decision issued on October 31, 2006. The state hearing decision overruled Appellant's appeal, finding that the Franklin County Board of Mental Retardation and Developmental Disabilities correctly approved Appellant as meeting the emergency criteria, but approving Appellant for the Level One Waiver, instead of the Individual Options Waiver waiting list. Appellant has requested emergency status.

Ohio Admin. Code 5123:2-1-08(F) provides that individual with emergency status shall receive first priority for services. The rule defines "emergency status" as "any situation that creates for an individual a risk of substantial self-harm or substantial harm to others if action is not taken within thirty days." The cited examples include: (1) Loss of present residence for any reason, including legal action; (2) Loss of present caretaker for any reason, including serious illness of the caretaker, change in the caretaker's status, or inability of the caretaker to perform effectively for the individual; (3) Abuse, neglect, or exploitation of the individual; (4) Health and safety conditions that pose a serious risk to the individual or others of immediate harm or death; (5) Change in emotional or physical condition of the individual that necessitates substantial

accommodation that cannot be reasonably provided by the individual's existing caretaker.

The county board determined that Appellant's emancipation and subsequent loss of foster care placement met the requirements of emergency status under the rule. Because Appellant was determined to meet the emergency status criteria, the County Board proposed that Appellant be approved for the Level One Waiver and for a housing subsidy. The Board denied Appellant placement on the Individual Options Waiver.

The County Board further determined that Appellant's needs in the community could be met through the Level One Waiver and within the \$5000 annual cap on services. This determination was based on the functional assessment completed on May 9, 2006.

Appellant's guardian is concerned that Appellant's needs for services will exceed that cap and additional services would be required. Because Appellant has never been on his own in a community setting, it is not certain what his service needs will be. However, it appears that the County Board attempted to evaluate Appellant's current needs when it proposed the Level One placement and the housing subsidy. That determination appears reasonable. Because O.R.C. 5126.042 gives the County Boards responsibility to create and maintain the waiting lists for available services, we find that the denial of Appellant's placement on the IO Waiver, and the state hearing decision, are both correct.

DECISION

Accordingly, we ORDER that the hearing decision is AFFIRMED.

Administrative Appeal Officer

CONCUR:

Administrative Appeal Officer

Chief Administrative Hearing Officer

Date of Issuance: February 14, 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, FRANKLIN CDJFS
FOGLEA, WALKEM, Bureau of State Hearings