

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

In the matter of:

<u>Case Number:</u>	<u>County:</u>	
7010454184	CUYAHOGA	
<u>Appeal:</u>	<u>Program:</u>	<u>Disposition:</u>
1305529	IVD	SUSTAINED
Compliance Required		
Decision Date:	02/16/2007	
Request Date:	09/11/2006	
Hearing Officer:	ELAINE TRIMBLE	

State Hearing Decision

ISSUE SECTION

1305529-IVD (Child Support)

Appellant is the custodial parent in a child support case that was administered by the Cuyahoga County Child Support Enforcement Agency (Agency). Agency closed the IV-D child support case because the child reached the age of majority; there was no current child support order and there were no arrearages. Appellant disagreed that there were no arrearages owed; Appellant further contends the obligor has not paid the child's past medical expenses. Was the Agency correct to close the child support case?

Agency has failed to substantiate an arrearage amount; therefore, Agency has not demonstrated by a preponderance of the evidence that the closing of the child support case was in accordance with rules and was correct. The Hearing Officer recommends that appeal 1305529, Child Support program, be SUSTAINED.

PROCEDURAL MATTERS:

On 06/29/06, notice of pending case closure was mailed. On 09/11/06, the Bureau of State Hearings received the hearing request (Exhibit 1). A state hearing scheduled on 10/03/06 was rescheduled at Appellant's request to 10/25/06. The state hearing scheduled on 10/25/06 was also rescheduled at Appellant's request. State Hearing Scheduling Notice was mailed to all parties; and, on 11/21/06, the state hearing was conducted. Appellant represented herself at the appeal. A public information officer, Almida Aviles, represented the Agency. The Appeal Summary was received on 09/21/06.

FINDINGS OF FACT:

1. The youngest child on the support order was 18 years of age on 11/03/04 and graduated from high school on 05/26/06.
2. In 02/06, Agency conducted an audit and determined Appellant had been overpaid \$15.42; Agency did not inform Appellant of the audit findings.
3. Agency presented a Division of Domestic Relations Judgment Entry, filed 03/17/06, ordering the child support order terminate 05/26/05 support arrearage payments in the amount of \$388.10 per month plus processing charge. (Exhibit A).

STATE HEARING DECISION CONTINUATION

4. Appellant had a shared order for medical support and no arrearage amount for medical bills was identified in the judgment entry.
5. Agency determined the child had reached the age of majority; there was no current support order, and arrearages were under \$500 or unenforceable under state law.
6. Agency mailed Pending Case Closure Notification on 06/29/06 and closed the child support case on 08/28/06.
7. Appellant contends the obligor owes for arrearage and has never paid medical bills or provided an insurance card.

CONCLUSIONS OF POLICY:

Policy:

1. Ohio Admin. Code § 5101:12-10-70 (2006) describes the conditions that must exist and the process the child support enforcement agency (CSEA) shall use to terminate IV-D services or terminate support enforcement program services (i.e. case closure). Paragraph (D) allows the CSEA to terminate services when the case record contains verification that the case meets certain criteria. One of the conditions delineated is:
 - (1) There is no continuing duty of support, as described in section 3103.03 of the Revised Code, and:
 - (a) There is no support order and paternity establishment is not required.
 - (b) The court or administrative support order has been terminated and the total of all arrears is less than five hundred dollars and a payment has not been received on the case within the preceding six months.
2. According to Ohio Admin. Code § 5101:6-6-02 (A) (2006) the agency representative presents and is the advocate for the agency's case at the hearing. This person shall explain the reasons for the agency's action, cite the regulations upon which the action was based, provide relevant case information and documents, and answer relevant questions from the individual and the hearing officer.
3. Ohio Admin. Code § 5101:6-7-01(C), (1), (c) (2006) states it shall be the responsibility of the agency to show, by a preponderance of the evidence, that its action or inaction was in accordance with ODJFS rules.

Analysis:

In this case, the Agency terminated the IV-D support order effective 05/26/05 because the only child on the order was emancipated. Agency maintains there are no arrearages owed to Appellant and wishes to terminate IV-D services. Agency asserted in 02/06, a case audit calculation was done and Agency determined Appellant had been overpaid. Appellant disagreed that no arrearages are owed. Appellant maintained in 12/04, arrearage was \$3,000 and the obligor also owes past medical bills.

Agency did not present the audit findings at the state hearing; neither did the Agency present any payment history.

Agency did present a judgment entry dated 03/14/06 (after the case audit calculation) in which the court ordered: the child support order terminate 05/26/05; support arrearage payments of \$388.10 per month plus processing charge; funds previously impounded by CSEA be released to satisfy the arrearage. The order of the court was based upon the investigative findings and

STATE HEARING DECISION CONTINUATION

recommendations of the CSEA and indicates neither party filed a motion to object to said findings and recommendations.

The rule sets forth certain conditions that must be met before the CSEA may terminate IVD services. The rule states the case record must contain verification that the case meets criteria for termination of support enforcement program services. One of the conditions allowing for termination is one in which the court or administrative support order has been terminated, the total of all arrears is less than five hundred dollars, and a payment has not been received on the case within the preceding six months.

Agency has not shown by presenting verification that the conditions described in the rule were met. While the support order has been terminated due to the emancipation of the child, Agency has not substantiated an arrearage amount (or lack thereof) and also that a payment has not been received on the case within the preceding six months. Therefore, Agency has not demonstrated by a preponderance of the evidence that the closing of the child support case was in accordance with rules and was correct.

HEARING OFFICER'S RECOMMENDATIONS:

1305529-IVD (Child Support)

Based on the record and policy before me, I recommend that the appeal should be SUSTAINED. The action to close the IV-D child support case was not supported. Agency should be directed to reinstate the child support case. Agency should determine if there are arrearages due and take appropriate collection action. Agency should determine if the conditions outlined in the rule for case closure are met. If indicated, Agency may again propose case closure, but must provide Pending Case Closure Notice, affording appeal rights.

FINAL ADMINISTRATIVE DECISION AND ORDER:

Finding the Hearing Officer's decision to be supported by the evidence, the recommendations above are adopted, and the appeal is SUSTAINED.

COMPLIANCE IS REQUIRED:

Ohio Admin. Code § 5101:6-7-03(B)(1)(a) requires compliance with this decision within fifteen calendar days from the date of this decision, but no later than ninety calendar days from the hearing request date. Compliance shall be promptly reported to ODJFS, Bureau of State Hearings, via JFS 04068, compliance form, accompanied by supporting documentation. (2003)

Hearing Authority

February 16, 2007

Notice to Appellant

This is the official report of your hearing and is to inform you of the decision and order in your case. All papers and materials introduced at the hearing or otherwise filed in the proceeding make up the hearing record. The hearing record will be maintained by the Ohio Department of Job and Family Services. If you would like a copy of the official record, please telephone the hearing supervisor at the CLEVELAND District hearing section at 1-866-635-3748.

STATE HEARING DECISION CONTINUATION

If you believe this state hearing decision is wrong, you may request an administrative appeal by writing to: Ohio Department of Job and Family Services, Bureau of State Hearings, P.O. BOX 182825, Columbus, OH 43218-2825 or fax: (614) 728-9574. Your request should include a copy of this hearing decision and an explanation of why you think it is wrong. Your written request must be received by the Bureau of State Hearings within 15 calendar days from the date this decision is issued. *(If the 15th day falls on a weekend or holiday, this deadline is extended to the next work day.)* During the 15-day administrative appeal period you may request a free copy of the tape recording of the hearing by contacting the district hearings section.

If you want information on free legal services but don't know the number of your local legal aid office, you can call the Ohio State Legal Services Association, toll free, at 1-800-589-5888, for the local number.

Aviso a la Apelante

Esta es la decisión estatal administrativa de su caso. Todos los documentos y materiales presentados como prueba en la vista o de otra manera radicados componen el récord administrativo. El récord administrativo será mantenido por el Ohio Department of Job and Family Services.

Si usted cree que esta decisión estatal administrativa es errónea, usted puede solicitar una apelación administrativa escribiendo al: Ohio Department of Job and Family Services, Bureau of State Hearings, P.O. Box 182825, Columbus, Ohio 43218-2825 o facsímil (614) 728-9574. Su solicitud debe indicar por qué usted piensa que la decisión administrativa es errónea. Usted puede completar la solicitud de apelación incluida con esta decisión. Su solicitud escrita o formulario de apelación tiene que ser recibido por el Bureau of State Hearings dentro de los 15 días calendario desde la fecha en que esta decisión es expedida. (Si el 15to. día recae sobre un fin de semana o un día feriado, esta fecha límite es extendida al próximo día laborable). Durante el período de 15 días de apelación administrativa, usted o su representante pueden solicitar una copia gratuita del récord administrativo y de la grabación de la vista llamando al Bureau of State Hearings al 1-866-635-3748 (seleccione la opción 1 del menú principal).

Si usted quiere información sobre servicios legales gratuitos pero no sabe el número de su oficina local de servicios legales, usted puede llamar al Ohio State Legal Services Association, gratuitamente, al 1-800-589-5888, para el número local.

Appendix

Agency Exhibits:

A, Judgment Entry, filed 03/17/06.

Appellant Exhibits:

1, State hearing request (3 pages).