

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

In the matter of:

<u>Case Number:</u>	<u>County:</u>	
5033640565	MONTGOMERY	
<u>Appeal:</u>	<u>Program:</u>	<u>Disposition:</u>
1319132	PAF	OVERRULED
1319133	OWF	OVERRULED
No Compliance Required		
Decision Date:	02/09/2007	
Request Date:	11/27/2006	
Hearing Officer:	BRUCE WOLFF	

State Hearing Decision

ISSUE SECTION

(1) Ohio Works First (OWF), Appeal No.1319133

On 11/15/2006, the Montgomery County Department of Job and Family Services (CDJFS), also known as the agency, notified the appellant that they proposed to terminate the OWF- cash assistance, effective 11/30/06, for a first tier sanction. The agency proposed the action because the appellants failed to comply with all the provisions, including performing all work activities in the self-sufficiency contract. The appellant testified that she was in emergency room on 11/15/2006. After reviewing the facts of the case and the regulations, the hearing officer concluded that the agency's action was correct. Therefore, the hearing officer recommends the appellant's appeal be overruled.

(2) Food Stamp program, Appeal No.1319132

On 11/15/2006, the Montgomery County Department of Job and Family Services (CDJFS), also known as the agency, notified the appellant that they proposed to reduce the appellant's food stamp allotment (from \$408.00 to \$407.00), effective 12/01/06, for a first tier sanction. The agency proposed the action because the appellants failed to comply with all the provisions, including performing all work activities in the self-sufficiency contract. The appellant testified that she was in emergency room on 11/15/2006. After reviewing the facts of the case and the regulations, the hearing officer concluded that the agency's action was correct. Therefore, the hearing officer recommends the appellant's appeal be overruled.

PROCEDURAL MATTERS

On 11/27/2006, the appellant requested a state hearing via the Internet and the Bureau of State Hearings received it the same day. The appellant requested a timely hearing request and the benefit continued past the effective date. The state hearing was scheduled for and conducted on 12/18/2006. The agency was represented by Michelle Walker, Case Worker, #57,2413. The hearing officer held the record open until 12/22/06 @ 5pm so that the appellant produce a doctor's note.

FINDINGS OF FACT

STATE HEARING DECISION CONTINUATION

- (1) There are four individuals in the OWF and food stamp assistance group (AG). They are: the appellant, appellant's spouse and their two children, ages: 8 and 13.
- (2) On 10/05/2006, the appellant (Mrs.) and the appellant's spouse (Mr.) signed self-sufficiency contracts agreeing to perform all work activities in the self-sufficiency contract (SSC) and following all instructions and rules at the assigned worksite.
- (3) On 10/05/06, in the self-sufficiency plan, the agency assigned the appellant to 40 hours per week (or 172 per month), beginning 10/06/06 with no end date, at the Goodwill Industries, also known as the work experience program (WEP)
- (4) On 10/05/06, in the self-sufficiency plan, the agency assigned the appellant's spouse to 20 hours per week (or 86 per month), beginning 10/06/06 with no end date, at the Goodwill Industries.
- (5) The appellants were obligated to participate for a total of 258 hours.
- (6) For the month of 10/06, the appellant's did receive supportive services, such as a work allow, for transportation.
- (6) For the month of 11/06, the appellants participated for a total of 29.5 hours. The appellant participated at the WEP assignment for 21.5 hours and the appellant's spouse participated for 8 hours.
- (7) For the first week of 11/06, which started on 10/30/06, the appellant did not receive supportive services.
- (8) For the second week of 11/06, which started on 11/06/06, the appellant's received supportive services (See Fact 12) and they worked a total of 16 hours.
- (8) On 11/15/06, the appellant visited the emergency room and no instructions were given for being off beyond this one day.
- (9) On 11/15/2006, the agency notified the appellant that they proposed to terminate the OWF-cash assistance, effective 11/30/06, for a first tier sanction. On the same day, the agency, the agency proposed to reduce the appellant's , effective 11/30/06, for a first tier sanction.
- (10) At the time of signing of the SSC, the agency approved a work allowance for transportation.
- (11) The agency initially issued the appellant's an OWF and work allowance on 10/11/06, to the appellant's old address and it was not redeemed. The appellant's did not receive it.
- (12) On 10/27/06, the agency re-issued the appellant two work allowances, for 10/06 and 11/06, and re-issued the appellant's OWF check for 10/06. And, they were redeemed.
- (13) On 11/15/06, the agency issued the appellant's 11/06 check and it was redeemed.
- (14) On 11/27/2006, the appellant requested a state hearing.

CONCLUSIONS OF POLICY

Policy

Ohio works first (OWF): three-tier sanctions

(1) Ohio Admin. Code section 5101:1-3-15 (B) states if a member of an assistance group fails or refuses, without good cause, to comply in full with a provision of a self-sufficiency contract entered into with the CDJFS, the agency shall sanction the assistance group.

(2) Ohio Admin. Code section 5101:1-3-15 (B)(1) states for a first failure or refusal, the CDJFS shall deny or terminate the assistance group's eligibility to participate in OWF for one payment month or until the failure or refusal ceases, whichever is longer....

Good cause

(3) Ohio Admin. Code section 5101:1-3-12 (H)(1) states missed hours of participation in a month may be made up by a work eligible individual within the same month at the discretion of the CDJFS. Any missed hours of participation that are not made up by an individual may be considered good cause if they meet one of the good cause reasons set forth in paragraph (H)(3) of this rule. (ODJFS, 09/26/06)

(4) Ohio Admin. Code section 5101:1-3-12 (H)(2) states for each failure, refusal or absence, the CDJFS shall determine if good cause exists.

(5) Ohio Admin. Code section 5101:1-3-12 (H)(3) states Good cause is limited to the following:

- (a) Illness of the work eligible individual or of another family member, if care by the work eligible individual was necessary;
- (b) For either the work eligible individual or a family member, an appointment necessary for medical, dental, or vision care;
- (c) An appointment for a work eligible individual for a job interview including any subsequent interviews and/or testing requirements;
- (d) Court ordered appearances;
- (e) Appointment with another social service agency or program;
- (f) Death in the family, with the length of absence to be determined by the CDJFS;
- (g) A school, place of work or worksite is closed due to weather or other emergency;
- (h) Lack of child care;
- (i) A failure of the CDJFS to provide supportive services;
- (j) A failure of the CDJFS to provide the individual with all information necessary about the assignment; or
- (k) Other absences excused at the discretion of the CDJFS director or designee.

Food Stamp programs

(6) Ohio Admin. Code section 5101:4-3-09 outlines the Food Stamp policy concerning requirements and responsibilities under the Ohio Works First (OWF) program.

(7) Admin. Code section 5101:4-3-09 (A) states that the following provisions apply to the OWF, Food Stamp (FS) assistance groups (AG). The policy indicates that an OWF/FS assistance group is required to sign a self-sufficiency contract and self-sufficiency plan.

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(8) Admin. Code section 5101: 4-3-09 under (J) of the rule, states the food stamp sanction or disqualification period shall be imposed concurrently with the sanction or disqualification in the OWF program to the extent allowed by normal food stamp processing.

Analysis

The Ohio Admin. Code section 5101:1-3-15 (B) states if a member of an assistance group fails or refuses, without good cause, to comply in full with a provision of a self-sufficiency contract entered into with the CDJFS, the agency shall sanction the assistance group.

The appellant argued that she and her spouse did not complete all their hours, for the month of 11/06, due to not receiving their OWF check until late 10/2006 and then the agency sent the check to the wrong address, as they were homeless. Then, in early 11/06 they received their 10/06 check. Further the appellant testified that they received their 11/06 work allowance late.

Second, the appellant testified that the agency's evidence of their hours worked (See Exhibit "E") was not representative of the hours they participated in, at the WEP site. When the hearing officer asked the appellant what additional hours or days she worked, the appellant responded that she has her information in storage, due to being homeless. The hearing officer offered to the appellant to go back to the WEP site (Goodwill) to discuss the alleged hours that were not documented.

Third, on 11/15/06, the appellant's spouse testified that he went to the emergency room (E-room), for sprained wrist and was not suppose to use it for 5 days. The appellant testified The appellant testified that she attended on 11/17/06 for 6 hours.

The appellant testified that they did not participate in the WEP activity for the weeks of 11/20/06 and 11/27/06 because they were told by the agency that their case was going to be terminated. The appellant's spouse testified that he was going to the blood bank

The hearing officer reviewed the Ohio Admin. Code section 5101:1-3-12 (H)(1) states missed hours of participation in a month may be made up by a work eligible individual within the same month at the discretion of the CDJFS. Any missed hours of participation that are not made up by an individual may be considered good cause if they meet one of the good cause reasons set forth in paragraph (H)(3) of this rule.

A lengthy review of the facts reveals, that the appellant did not receive an OWF or supportive services check for the 10/06. Therefore, according to the good cause, there was no failure. And, the appellant's did not receive a supportive check for the first week of 11/06, again not failure.

But, for the second week of 11/06, which started on 11/06/06, the appellant would have received their 10/06 and 11/06 OWF and supportive services checks because they were redeemed. And, the appellants participated for a total of 16 hours (Mrs. participated for 8 hours). The SSP indicates the appellant's were responsible for 60 (40 for Mrs. & 20 for Mr.) hours per week. And, the appellant's never made up the hours for the remainder of the month; even by giving the appellant's spouse good cause for 11/17/2006.

The hearing officer made a hand-written calculation to verify it, by giving the appellant credit for 6 hours for 11/17/06 and credit for 5.5 hours for 11/13/06. This was 11.5 hours, plus the

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appellant's 8 hours is 19 hours, just looking at the second week of 11/06. Here, the appellants failed to comply with the Self-sufficiency contract, in its entirety. Therefore, the hearing officer concluded that the agency's action was correct.

HEARING OFFICER'S RECOMMENDATION

(1) Based on the record and Agency policy before me, I recommend the appeal for OWF should be overruled. Appeal No.1319133

(2) Based on the record and Agency policy before me, I recommend the appeal for Food Stamp program should be overruled. Appeal No. 1319132

FINAL ADMINISTRATIVE DECISION AND ORDER

Finding the hearing officer's decision to be supported by policy and the evidence, I adopt the hearing officer's recommendations. The appeal numbers 1319133 & 1319132 are hereby overruled.

Appendix

Appellant's Exhibits:

- (1) Hearing request, 1p.
- (2) Dr. Note(s) was illegible, 1p.

Agency's Exhibits:

- (A) Appeal Summary, 1p.
- (B) SSC, SSP & Good Cause, 6p.
- (C) Notifications and reason cdes, 4p.
- (D) Attendance at work site, 1p.
- (E) Notice of assignment (Mrs.), 1p
- (F) Notice of assignment (Mr.) 1p.
- (G) Cash Issuance, IQCH, 2p.
- (H) Emergency room visit, 11/15/06, 3p.
- (I) Running record comments, 9p.
- (J) Ineligibility data screen, 1p.

Hearing Authority

February 9, 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

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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 COLUMBUS District hearing section at 1-866-635-3748.

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.