

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

In the matter of:

<u>Case Number:</u>	<u>County:</u>	
5033784371	KNOX	
<u>Appeal:</u>	<u>Program:</u>	<u>Disposition:</u>
1379762	PAF	SUSTAINED
1379763	OWF	SUSTAINED
No Compliance Required		
Decision Date:	02/08/2008	
Request Date:	10/26/2007	
Hearing Officer:	SALLY A. CASSABON	

State Hearing Decision

ISSUE SECTION

Issue #1/Appeal #1379762 (Food Stamps)

Issue #2/Appeal #1379763 (OWF)

The Knox County Department of Job and Family Services (Agency) proposed termination of the AG's OWF assistance and reduction of the AG's Food Stamps effective 11/01/07. The Agency's actions were based on their finding that the Appellant failed to comply with her signed Self-Sufficiency Contract and did not establish good cause for said failure. The issue under appeal is whether the Agency's proposed actions are correct.

After careful review of the evidence presented, this Hearing Officer finds the Agency failed to adequately assess the Appellant's work limitations and make an assignment consistent with those limitations. Based on the regulations regarding the assessment process set forth in the Ohio Revised Code the Agency actions are found to be contrary to the facts presented. It is, therefore, recommended that the appeals be SUSTAINED.

PROCEDURAL MATTERS

The Appellant's state hearing request was received by the State of Ohio on 10/26/07. The state hearing was initially scheduled for 11/20/07, however, was rescheduled to 12/10/07 at the request of the Appellant. The Appeal Summary was submitted to the Regional Office on 11/02/07. Testimony for the Agency was presented by Brenda Trace, Public Assistance Worker and Wendy McKinney, Case Manager Work Force Development. The Appellant attended the state hearing with a representative from Ohio Legal Services.

FINDING OF FACT

1. The household consists of the Appellant and one child. This is a "pure OWF" AG (assistance group).

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2. On 08/08/07 the Appellant completed her assessment and signed her Self Sufficiency Contract and Plan. The Appellant was assigned to Job Search beginning 09/01/07.
3. The Appellant submitted a medical statement indicating her medical limitations which included treatment for depression. She also has an SSI application pending due to her medical limitations.
4. The Appellant attended Job Fair on 09/06/07, however, was unable to attend Job Search as scheduled during the month of Sept. 2007.
5. The Appellant submitted various medical information during the month of Sept. and due to the Appellant's circumstances during that month the Appellant's Case Manager allowed good cause for the month of Sept.
6. The Appellant was reassigned to Job Search for the month of Oct. 2007 and a work allowance was approved and issued.
7. The Appellant's work schedule for the month of Oct. 2007 was mailed to the case record address on 09/24/07.
8. The Appellant did not participate in her assigned activity during the month of Oct. 2007. There was no communication between the Appellant and her caseworker during the month of Oct. 2007.
9. The Appellant's caseworker requested a second tier sanction due to the Appellant's failure to participate in Job Search during the month of Oct. Notice proposing termination of OWF and reduction of Food Stamps was mailed to the AG on 10/12/07.
10. The Appellant's first occurrence sanction was for a fail date of 05/26/98 with the sanction effective 07/01/98.
11. The Appellant requested a state hearing on 10/26/07 disputing the Agency's proposed sanction.

CONCLUSIONS OF POLICY

Policy

As soon as possible after an assistance group submits an application to participate in Ohio Works First, the county department of job and family services that receives the application shall schedule and conduct an appraisal of each member of the assistance group who is a minor head of household or adult, other than a minor head of household participating in the LEAP program. The appraisal may include an evaluation of the employment, educational, physiological, and psychological abilities or liabilities, or both, of the minor head of household or adult. At the appraisal, the county department shall develop with the minor head of household or adult a plan for the assistance group to achieve the goal of self sufficiency and personal responsibility through unsubsidized employment with the time limit for participating in the Ohio Works First

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program established by section 5107.18 of the Revised Code. The plan shall include assignments to one or more work activities, developmental activities, or alternative work activities in accordance with section 5107.42 of the Revised Code. The county department shall include the plan in the self-sufficiency contract entered into under section 5107.14 of the Revised Code.

The county department shall conduct more appraisals of the minor head of household or adult at times the county department determines.

If the minor head of household or adult claims to have a medically determinable physiological or psychological impairment, illness, or disability, the county department may require that the minor head of household or adult undergo an independent medical or psychological examination at a time and place reasonably convenient to the minor head of household or adult.

Ohio Revised Code § 5107.41 (2007)

If a county department determines that a minor head of household or adult has a temporary or permanent barrier to participation in a work activity, it may assign the minor head of household or adult to one or more alternative work activities instead of assigning the minor head of household or adult to one or more work activities or developmental activities.

A county department may reassign a minor head of household or adult when the county department determines reassignment will aid the assistance group in achieving self sufficiency and personal responsibility and shall make reassignments when circumstances requiring reassignment include the reassignment in the contract.

Ohio Revised Code § 5107.42 (2007)

In accordance with a federal waiver granted by the United States secretary of health and human services pursuant to a request made under former section 5101.09 of the Revised Code, a county department may establish and administer a developmental activity under which a minor head of household or adult attends a school, special education program, or adult high school continuation program that conforms to the minimum standards prescribed by the state board of education or instructional courses designed to prepare the minor head of household or adult to earn a high school equivalence diploma.

Ohio Revised Code § 5107.62 (2000)

Subject to the availability of funds and except as limited by section 5107.58 of the Revised Code, county departments of job and family services shall provide for participants of Ohio Works First placed in a work activity, developmental activity, or alternative work activity to receive support services the county department determines to be necessary. County departments may provide applicants of Ohio Works First placed in the work activity established under section 5107.50 of the Revised Code to receive support services the county department determines to be necessary. Support services may include publicly funded child care under Chapter 5104 of the Revised Code, transportation, and other services.

Ohio Revised Code § 5107.66 (2005)

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Analysis

In the present situation, the Agency is proposing a second tier work activity effective 11/01/07. The Agency asserts the Appellant failed to comply with her signed SSC/SSP and failed to establish good cause for said failure. There is no dispute that the Appellant did not participate in her assigned activity for the month of Oct. 2007. However, there is a question as to whether the Appellant understood her responsibility to attend and the consequences of not attending. The Appellant communicated to the Agency at the time of assessment that she did have mental and physical disabilities that limited her participation. The Appellant reported she applied for SSI and submitted medical documentation to support her limitations. The Appellant, who has a tenth grade education, also reported learning disabilities. The Appellant also sees a mental health professional for her depression.

The purpose of the SSC/SSP is to promote self sufficiency. Alternative activities are designed to promote self sufficiency and person responsibility and are intended to address temporary and permanent barriers to participating in work activities. In reviewing the current SSC/SSP signed by the Appellant in August, this Hearing Officer finds the assigned activity failed to take into consideration the Appellant's current situation and barriers. The Agency was provided with sufficient information to suggest the Appellant was in need of a specific plan that was unique to her circumstances and her barriers to employment. The Appellant's current assignment is inconsistent with her medical limitations. The medical documentation submitted shows the Appellant suffers from depression. Knowing this, the Agency should have followed up with a psychological assessment before even making an assignment. Moreover, it is unclear how the assignment was intended to complement the overall goal of self sufficiency for the Appellant who has only a tenth grade education.

Based on the testimony and evidence presented, this Hearing Officer finds the Agency's proposed sanction to be incorrect. It is, therefore, recommended that the appeals be SUSTAINED.

HEARING OFFICER'S RECOMMENDATION

Based on the record before me, I find

Issue #1/Appeal #1379762 (Food Stamps) should be SUSTAINED.

Issue #2/Appeal #1379763 (OWF) should be SUSTAINED.

The Agency is directed to void the proposed work activity sanction that was to take effect 11/01/07. The Agency is also directed to reappraise and reassess the Appellant and renegotiate the Appellant's self sufficiency contract with consideration of the Appellant's unique circumstances and barriers to employment. The Agency shall notify the Appellant and her AR in writing of these actions via the appropriate notice affording full hearing rights.

FINAL ADMINISTRATIVE DECISION AND ORDER

STATE HEARING DECISION CONTINUATION

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

Issue #1/Appeal #1379762 (Food Stamps) is SUSTAINED.

Issue #2/Appeal #1379763 (OWF) is SUSTAINED.

Hearing Authority

February 8, 2008

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 TOLEDO 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.

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Appendix

APPENDIX

Appellant's Exhibits

1. Appellant's State Hearing Request.

Agency's Exhibits

A. Agency Appeal Summary with narrative (2 pages).

B. Signed SSC/SSP including good cause policy (5 pages).

C. Medical Documentation (5 pages).

D. Work Schedules, Documentation of good cause for Sept. 2007, Attendance Sheets, E-Mails (7 pages).

E. Case Record Comments, Cash Issuance History, Notice History Screens, documentation of sanctions (8 pages).