

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

In the matter of:

<u>Case Number:</u>	<u>County:</u>	
5078087763	MONTGOMERY	
<u>Appeal:</u>	<u>Program:</u>	<u>Disposition:</u>
1442236	OWF	SUSTAINED
1442237	PAF	SUSTAINED
Compliance Required		
Decision Date:	02/11/2009	
Request Date:	10/14/2008	
Hearing Officer:	VIRGINIA M. RINGEL	

State Hearing Decision

**ISSUE SECTION**

The Agency, the Montgomery County Department of Job and Family Services, terminated the Appellant's Ohio Works First cash assistance (OWF) and reduced her food stamp allotment because the Agency determined that the Appellant failed to meet the obligations of her self-sufficiency contract. The Appellant requested this appeal because she disagrees with the sanction imposed on her OWF (appeal number 1442236) and food stamp (appeal number 1442237) assistance groups. The issue addressed at this state hearing was whether the Agency showed that the Appellant failed to comply with the provisions of her self-sufficiency contract, and if so, was that failure without good cause, warranting a sanction on the Appellant's OWF and food stamp assistance groups.

After careful consideration of the evidence and testimony presented during this state hearing, I found that the Agency failed to support its position that the Appellant's failure was without good cause. Therefore, the Agency's sanction was not supported and cannot be upheld. I will recommend that the appeals be sustained.

**PROCEDURAL MATTERS**

The Appellant requested this state hearing by telephone October 14, 2008. A state hearing was originally scheduled to be held December 2, 2008, but was rescheduled at the Appellant's request. The hearing was then rescheduled for and held January 28, 2009, at the Montgomery County Job Center. Participating and testifying under oath during this state hearing were the Appellant, and Lisa Wise, representing the Agency. No appeal summary was submitted by the Agency for this state hearing.

The Appellant was given an opportunity to submit additional information, as the record was left open until February 4, 2009. Ms. Wise indicated that the Agency representatives would be Karen Massey and Larry Rice. January 28, 2009 an E-mail was sent to Ms. Massey and Mr. Rice, informing them of the record being left open for the Appellant's to submit additional information until noon February 4, 2009. The Appellant submitted additional information, and that information was sent to Ms. Wise, Ms. Massey, and Mr. Rice. No comments were

STATE HEARING DECISION CONTINUATION

submitted by the Agency, though the record remained open until February 9, 2009 at 5:00 p.m. for those comments.

**FINDINGS OF FACT**

1. The Appellant's household consists of her and her minor child, the sole members of both the OWF and food stamp assistance groups.
2. The Appellant applied for OWF and food stamps July 8, 2008, and signed a self-sufficiency contract and plan.
3. The Appellant agreed to complete a work assignment for 86 hours per month beginning August 1, 2008.
4. The Appellant did not report to her assignment during the month of August 2008.
5. The Appellant was suffering with mental health issues during the month of August 2008.
6. The Appellant was diagnosed with Post Traumatic Stress Disorder (PTSD) some time after August 2008.
7. The Appellant has been receiving treatment for her PTSD since October 14, 2008.

**CONCLUSIONS OF POLICY**

When a state hearing is conducted, "[i]t shall be the responsibility of the agency to show, by a preponderance of the evidence, that its action or inaction was in accordance with rules of the Administrative Code."<sup>1</sup> Furthermore, "The hearing officer's findings of fact shall be based exclusively on the evidence introduced at the hearing, or after the hearing and subject to examination and rebuttal by both parties as described in rule 5101:6-6-02 of the Administrative Code."<sup>2</sup>

First, all work eligible individuals who apply for OWF, are required to participate with the Agency in conducting an appraisal of that individual's employability.<sup>3</sup> During the appraisal, the Agency and individual are required to develop a self-sufficiency plan, established with the goal of helping the individual achieve financial independence.<sup>4</sup>

When a work required individual fails to meet the obligation of her self-sufficiency contract, without good cause, she subjects her OWF assistance group to a sanction, resulting in the loss of eligibility. For a second such occurrence, the individual's assistance group loses eligibility for a minimum of three months.<sup>5</sup> Regulations dictate that when all the members of the OWF assistance group are also the sole members of the food stamp assistance group, a similar sanction applies, except that only the individual who failed to meet the requirements of her contract loses eligibility.<sup>6</sup> Here, there is no dispute that the Appellant did not complete her assigned activity in August 2008. The issue to be addressed at this point is whether the Appellant's failure was without good cause.

Though the Agency testified that the Appellant had no good cause reason for failing to report to her assignment in August 2008, the Appellant provided credible testimony that she was unable to complete her assignment because she was mentally unable to complete her assignment, due to her battle with PTSD. Though her mental illness was not diagnosed until later, and her treatment

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<sup>1</sup> Ohio Admin. Code § 5101:6-7-01 (C) (1) (2008)

<sup>2</sup> Id.

<sup>3</sup> Ohio Admin. Code § 5101:1-3-12 (C) (2008)

<sup>4</sup> Id. (C) (4)

<sup>5</sup> Ohio Admin. Code § 5101:1-3-15 (B) (2008)

<sup>6</sup> Ohio Admin. Code § 5101:4-3-09 (2008)

**STATE HEARING DECISION CONTINUATION**

did not begin until October 14, 2008, I find it credible that she was suffering with mental health issues that kept her from being able to complete her assignment. Because illness of the individual is one of the good cause criteria for failing to meet the obligations of a self-sufficiency contract,<sup>7</sup> I find that the Appellant had good cause for failing to participate in August 2008.

Because her failure to cooperate was with good cause, the Agency's proposal to sanction the Appellant's benefits was not supported, and should not be upheld.

**HEARING OFFICER'S RECOMMENDATION**

Based on the record and Agency policy before me, I recommend that appeals 1442236 and 1442237 be sustained. The Agency should be required to remove this sanction from the Appellant's case record and continue her OWF and food stamp eligibility.

**FINAL ADMINISTRATIVE DECISION AND ORDER**

Since I find that the Hearing Officer's recommendation is supported by policy and the evidence, I hereby adopt the recommendation. Thus, appeals 1442236 and 1442237 are SUSTAINED. The Agency is required to comply with the hearing officer's recommendation for corrective action within fifteen days of the mailing date of this decision.<sup>8</sup>

Hearing Authority

February 11, 2009

**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 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**

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<sup>7</sup> Ohio Admin. Code § 5101:1-3-11 (F) (2) (2008)

<sup>8</sup> Ohio Admin. Code § 5101:6-7-03 (B) (1) (2008)

## STATE HEARING DECISION CONTINUATION

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**

**Appellant Exhibits:**

1. State Hearing Request (one page)
2. Reschedule Request (one page)
3. December 1, 2008 letter from Appellant's counselor (one page)
4. August 11, 2008 Work Excuse (one page)
5. Basic Medical Form (two pages)
6. Discharge Instructions (two pages)

**Agency Exhibits:**

- A. E-mail regarding attendance at hearing (one page)

**Other Items Included in the Record:**

- State Hearing Scheduling Notices (two pages)
- Case Summary Report (one page)
- Printed Case Profile (IQCP) Screen (one page)
- Printed Notice History (CNHS) Screen (one page)
- Printed Notice History Detail (CNHD) Screens (two pages)
- Printed Notice History Reason Code (CNRC) Screens (two pages)
- Printed E-mails to the Agency representatives (two pages)