

STATE HEARING DECISION

ODHS 4005 (Rev. 9/94)

County ASHTABULA	District Hearings Section CLEVELAND	Assistance Group Name		Assistance Group Number
Place of Hearing ASHTABULA CDHS	Initial Hearing Date 12/31/2002	Rescheduled Postponed to 02/11/2003	Rescheduled Postponed to 01/21/2003	Rescheduled Postponed to

Appellant/Representative	Appellant Representation
	Local Agency Representation R. Rodriguez, CHO; D. Glotzbecker, CM

Date Notice Mailed 11/26/2002	Date Received by Local Agency	Date Received by ODHS 12/10/2002	Date Appeal Summary Received 12/30/2002	Date Scheduling Notice Mailed 01/31/2003
Appeal Number(s)/Program(s) 1098104/MED				

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 1-800-686-1551.

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, Office of Legal Services, 30 East Broad Street, 31st Floor, Columbus, Ohio 43215-3414 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 Office of Legal Services 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.

ISSUE

County agency has denied the appellant's eligibility for Low-Income Families (LIF) Medicaid because the 24-month eligibility period has ended and agency determined appellant does not meet eligibility criteria for any other Covered Families and Children Medicaid (CFCM) assistance. Appellant questions whether she has received the benefit for the months reported by agency. Agency has failed to show that CFCM was issued for the alleged time frame. Agency has failed to show other programs and other budgeting methods have also been explored that may provide appellant continued eligibility for CFCM. The appeal is therefore **SUSTAINED** and issue of appellant's eligibility for CFCM remanded to agency; compliance to issue.

PROCEDURAL MATTERS

By notice dated November 26, 2002, agency advised appellant it had denied her eligibility for CFCM. Appellant's hearing request was received on December 10, 2002. Hearings originally scheduled for

SEK

Appeal(s) SUSTAINED 1098104	Date Issued 03/11/2003	Compliance 1098104
------------------------------------	----------------------------------	---------------------------

Distribution: Original to appellant, one copy to local agency; one copy to district Hearing section; one copy to district office; two copies to State Hearings. *(Photocopy to appellant's authorized representative, if any, and to ODHS units as appropriate.)*

Appeal Number(s) 1098104

December 31, 2002 and January 21, 2003, were postponed at appellant's requests of December 30, 2002 and January 17, 2003. The hearing was rescheduled and held on February 11, 2003 from 10-day advance notice of January 30, 2003. The appellant represented herself and county agency was represented by a hearing official and appellant's caseworker. An appeal summary was received from the agency on December 30, 2002.

FINDINGS OF FACT

- 1) The assistance group (AG) consists of appellant and her four minor age children.
- 2) At the time of the eligibility determination in November 2002, appellant was employed at two jobs with gross earnings of \$840 monthly.
- 3) The AG also has child support income of \$627 for two of the children and one of the children receives SSI benefits of \$552 monthly.
- 4) Agency has denied appellant inclusion in the CFCM case under the Low-Income Families (LIF) category as agency determined appellant's income is in excess of the need standard and the 24-month time-limited eligibility period expired September 30, 2002.
- 5) Agency asserts the LIF eligibility period began October 1, 2000.
- 6) Agency had also terminated Transitional Medicaid benefits effective November 30, 2002 as the 12 month eligibility period had ended. Agency asserts the eligibility period began as of November 1, 2001.
- 7) The agency did not offer documentation of the LIF or TM eligibility periods.
- 8) Appellant questioned whether she had actually been issued TM for the full 12 months. This concern is not without merit in light of a Notice History that shows appellant was found eligible for TM per notice dated August 9, 2002. This would mean appellant received TM for only three months when the benefit terminated on November 30, 2002.
- 9) Appellant further noted that as of the end of February 2003, she is only working at one job.
- 10) Agency representatives noted they would process this reported change.

CONCLUSIONS OF POLICY

Policy

Ohio Administrative Code (OAC) rule 5101:1-40-25 provides CFCM under the Low-Income Families (LIF) category for entire families, to include caretaker parents, in either one of two ways: The AG's countable income after all allowable disregards is less than the appropriate Ohio Works First (OWF) payment standard or, the AG's gross countable income is equal to or less than the 100 percent federal poverty level (FPL) standard for the appropriate AG size. This latter category is time-limited to 24 months. Paragraph (B)(4) of the rule states the 24-month time limit does not stop when the AG is no longer eligible for LIF Medicaid or becomes eligible under another category of Medicaid.

Appeal Number(s) 1098104

Paragraph (B) of the rule states that the AG can be eligible again for a new 24-month eligibility period beginning the first of the seventh month following expiration of the 24-month time limit.

OAC rule 5101:1-40-26 shows the OWF payment standard for four persons is \$461. The 100 percent standard for four persons was \$1509. The standard for four persons rather than five persons is considered because the child in receipt of SSI is excluded as an assistance group member. (OAC 5101:1-40-01(L).)

Ohio Administrative Code (OAC) section 5101:1-40-05.1(A) instructs that AG's who lose healthy families/LIF eligibility due to the expiration of the 24 month time limited healthy families budgeting methodology as set forth in OAC rule 5101:1-40-25(B) are potentially eligible for two six-month periods of transitional medicaid coverage.

OAC rule 5101:1-40-01(J) instructs that individuals who have income that causes the remaining members of an AG to be ineligible, shall be excluded if the individual's income does not have to be deemed to the other AG members because of Medicaid prohibitions against deeming. This restriction is applicable here as Medicaid prohibits the deeming of income from sibling to sibling, as per paragraph (E) of the rule.

OAC rule 5101:6-7-01(C) instructs that within the state hearing process 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 ODHS regulations.

Analysis

Agency asserts that appellant received both TM and LIF CFCM for the maximum 12 month and 24-month time frames, respectively. Agency however, has offered no evidence in support of this assertion.

If the AG has in fact received LIF for 24 months, policy provides for assessment of whether there is eligibility for TM for 12 additional months. This aspect of potential CFCM does not appear to have been explored.

Agency has found that the countable income exceeds the need standard for appellant to be included; however, this determination appears to have been based on inclusion of the three children, two of which have child support income. These children may be excluded, and appellant's eligibility determined separately for herself and the one child who has no income of his or her own. This would be an AG of two persons with consideration to appellant's earned income, only. The \$804 gross amount is within the \$995 100 percent standard for two persons.

As the issue of whether appellant continues to be eligible for CFCM under the various categories outlined herein is not resolved, the conclusion is that the Agency has failed to show that its action to terminate and

Appeal Number(s) 1098104

deny appellant's eligibility for CFCM was correct.

HEARING OFFICER'S RECOMMENDATIONS

The appeal should be **SUSTAINED** and Agency directed to review the record and determine if the AG has in fact received TM for 12 months and LIF for 24 months, and if not, take the appropriate action to reinstate assistance and issue retroactive benefits. Should there be no additional TM or LIF eligibility found, Agency is directed to determine if there is eligibility for a new TM period and/or a new time-limited LIF period, and issue same. Should there be no eligibility under those categories, Agency is directed to determine if appellant may qualify for CFCM as a two-person AG when the children with earmarked income are excluded.

These eligibility determinations will be ongoing and/or retroactive as necessary and should begin effective no later than December 1, 2002 which is the first month in which appellant did not have CFCM eligibility.

FINAL ADMINISTRATIVE DECISION AND ORDER

Finding the hearing officer's decision to be supported by the evidence, the recommendations above are adopted.

Appeal #**1098104** is **SUSTAINED**. **COMPLIANCE IS REQUIRED.**

O.A.C. Section 5101: 6-7-03 requires prompt compliance from the local Agency with state hearing decisions. For decisions involving public assistance, compliance shall be achieved within 15 calendar days from the date the decision is issued, but in no event later than 90 calendar days from the date of the hearing request.

Compliance shall be promptly reported to the Bureau of State Hearings, ODHS, via "State Hearing Compliance," ODHS 4068, accompanied by appropriate documentation.

APPENDIX

EXHIBITS

AGENCY:

- A Employment Information screens; unearned income screens; three pages
- B CFCM budgets; three pages

- C CLRC Running Record Comments from 11-25-02 to 12-9-02; AG Profile; three pages
- D CNHS Notice History from 8-9-02 to 12-9-02; Notice History Detail screen for LIF denial of 11-26-02; three pages

APPELLANT:

none

Appeal Number(s) 1098104

Date Issued: 03/11/2003