

## STATE HEARING DECISION

ODHS 4005 (Rev. 9/94)

County <b>CUYAHOGA</b>	District Hearings Section <b>CLEVELAND</b>	Assistance Group Name		Assistance Group Number
Place of Hearing <b>CUYAHOGA CDHS</b>	Initial Hearing Date <b>12/28/2004</b>	Rescheduled Postponed to <b>02/23/2005</b>	Rescheduled Postponed to	Rescheduled Postponed to

Appellant/Representative	Appellant Representation
	Local Agency Representation <b>Michael Churn - Self-Sufficiency Coach</b>

Date Notice Mailed <b>12/09/2004</b>	Date Received by Local Agency	Date Received by ODHS <b>12/10/2004</b>	Date Appeal Summary Received	Date Scheduling Notice Mailed <b>01/31/2005</b>
Appeal Number(s)/Program(s) <b>1205682/PRC</b>				

### Notice to Appellant

This is the state hearing decision in your case. All papers and materials introduced at the hearing or otherwise filed make up the hearing record. The hearing record will be maintained by the Ohio Department of Job and Family Services.

**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, Ohio 43218-2825 or FAX (614) 728-9574. Your request should state why you think the hearing decision is wrong. You can complete the appeal request form included with this decision. Your written request or appeal form 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 or your representative may request a free copy of the hearing record and recording of the hearing by calling the Bureau of State Hearings at 1-866-635-3748 (select option 1 from main menu).

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

On 12-09-04, the Appellant requested a hearing because the Cuyahoga County Department of Job and Family Services (Agency) had not acted on her 10-25-04 and 11-29-04 Prevention Retention and Contingency (PRC) applications. The Appellant was requesting assistance with her utility bills and the need still exists.

The Agency did not present evidence or testimony that any action was taken on the Appellant's 10-25-04 and 11-29-04 PRC applications. The Agency did not establish that the Appellant's PRC eligibility had been determined. Therefore, it is found that the appeal is **SUSTAINED**, with Compliance.

### PROCEDURAL MATTERS

The Bureau of State Hearings received the Appellant's verbal request for a hearing on 12-09-04. A hearing was scheduled for 12-28-04, but the Appellant did not attend. The Appellant requested a reschedule and

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**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.)

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good cause was determined.

On 02-23-05, a rescheduled hearing was conducted and the Appellant attended.

No Appeal Summary was provided by the Agency. The hearing record was left open until the close of business on 02-23-05 for the Agency Representative (AR) to submit copies of case documents. The AR did not provide the requested documents.

### **FINDINGS OF FACT**

- 1) On 10-25-04, the Appellant faxed a P.R.C. application to the Agency requesting assistance with her utility bills.
- 2) On 11-29-04, the Appellant re-faxed her P.R.C. application to the Agency again requesting assistance with utility bills. She had not received a notice of eligibility determination on the first application she submitted.
- 3) Per the Appellant, she spoke with the unit clerk and the Agency Representative (AR) in 11-04, who both acknowledged receipt of the faxed PRC application. The clerk said there were case notes verifying the PRC application was received. The AR told her he was waiting for his supervisor to review the case and would notify her of her eligibility. She never received a notice of eligibility and she still needs help with her utility bills. She made numerous phone calls to the AR, left messages, but received never received a response from him.
- 4) Per the AR, he never received the Appellant's PRC application and was unable to locate her application. He has no idea of what is going on or what the dispute is about. When he was notified of this hearing, he called the Appellant, left a message, and doesn't recall if she called him back. He doesn't see anything in case notes regarding receipt of her PRC application, but there maybe something in the Agency's alternate computer system. He would obtain copies from the case record and submit them after the hearing.
- 5) The hearing record was left open until the close of business on 02-23-05 for the AR to submit copies of case notes and/or PRC applications. No information was provided by the Agency.

### **CONCLUSIONS OF POLICY**

#### **Policy**

**Ohio Administrative Code § 5101:1-38-01 (2003)** states in part in Section (F) (1) that the CDJFS is responsible for documenting and recording the determination of eligibility, and subsequently informing the AG of the eligibility decision. Subsection (2) and (b) of this same rule states a determination of eligibility shall be

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made as soon as possible after the application requirements are complete. No more that forty-five days may elapse between the date of application and an JFS 04074 "Notice of Approval of Your Application for Assistance" (or CRIS-E equivalent)

**Ohio Administrative Code § 5101:6-7-01** 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**

The Appellant stated she faxed two PRC applications to the Agency on 10-25-04 and 11-29-04. The Agency told her in 11-04 that her PRC application was received and the case notes supported this. The Appellant requested a hearing because she never received a notification of eligibility for either PRC application and she still needs help with utility bills.

The AR stated he did not know why the Appellant requested a hearing. There was no record of her submitting a PRC application. The AR did not have case documents at the hearing, but agreed to provide them after the hearing. The hearing record was left open until the close of business on 02-23-05 for the AR to submit copies of case notes and PRC applications. The Agency did not provide any of the requested information.

The Hearing Officer finds that the Appellant's testimony to be compelling and credible in that she submitted a PRC application on 10-25-04 and 11-29-04 to the Agency. The Agency failed to provided any follow-up documentation that a PRC application was or was not received or any case notes .

Per Ohio Admin Code § 5101:1-38-01, the Agency was required to make an eligibility determination within 30 days, but no later than 45 days from the date of either the 10-25-04 and/or 11-29-04 applications. The Agency did not meet the requirements of this regulation. Per Ohio Admin Code § 5101:6-7-01, it is the responsibility of the Agency to show, by a preponderance of the evidence, that its action or inaction was in accordance with ODJFS rules. The Agency did not meet the requirements of this regulation.

Therefore, the appeal is SUSTAINED, with Compliance. The Agency is directed to determine the Appellant's eligibility for PRC assistance for utility bills, based on her submitted application. If the Agency still cannot locate her PRC application, the Appellant is advised to submit another PRC application.

### **HEARING OFFICER'S RECOMMENDATIONS**

Based on the record before me, I find the appeal should be SUSTAINED.

The Agency is directed to determine the Appellant's eligibility for PRC assistance for utility bills, based on her

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10-25-04 submitted application. If the Agency cannot locate her PRC application, the Appellant shall resubmit a PRC application preserving the 10-25-04 application date. The Agency shall notify the Appellant of the results of this eligibility determination, via the appropriate ODHS notice(s).

**FINAL ADMINISTRATIVE DECISION AND ORDER**

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

Appeal #1205682 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)

**EXHIBITS**

**Agency**

None provided.

**Appellant**

1) The 12-09-04 ODJFS 04069 State Hearing Request for the Appellant's verbal request.

Date Issued: 03/10/2005