

STATE HEARING DECISION

ODHS 4005 (Rev. 9/94)

County LUCAS	District Hearings Section TOLEDO	Assistance Group Name		Assistance Group Number
Place of Hearing LUCAS CDJFS	Initial Hearing Date 01/27/2005	Rescheduled Postponed to	Rescheduled Postponed to	Rescheduled Postponed to

Appellant/Representative	Appellant Representation
	Local Agency Representation C. Slaughter - Eligibility Specialist

Date Notice Mailed	Date Received by Local Agency	Date Received by ODHS 12/27/2004	Date Appeal Summary Received	Date Scheduling Notice Mailed 01/14/2005
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Appeal Number(s)/Program(s) 1209081/OWF, 1209082/FS, 1209083/MED, 1209084/MED, 1209085/MED
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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 SECTION

ISSUE #1/APPEAL #1209085 (MA-C)

The Appellant's children are covered under the Healthy Start program. No testimony was presented regarding MA-C coverage. It is recommended that this appeal be **OVERRULED**.

ISSUE #2/APPEAL #1209084 (MA-P)

The Appellant's children are covered the Healthy Start program. There has been no adverse action regarding the children's medical coverage and no testimony was presented regarding this program. It is recommended that this appeal be **OVERRULED**.

SAC

Appeal(s) OVERRULED 1209081, 1209082, 1209083, 1209084, 1209085	Date Issued 03/04/2005	Compliance
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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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ISSUE #3/APPEAL #1209083 (MA-Y)

There was no testimony presented regarding this program. It is recommended that this appeal be OVERRULED.

ISSUE #4/APPEAL #1209082 (FS)

The Appellant filed an application with the Lucas County Department of Job and Family Services for Food Stamp assistance on 12/10/04. The Appellant included verification of her spouse's current pay stubs. The Agency determined the household's monthly income to be \$2,545 per month. Food Stamps for the AG were denied due to excess income. The issue under appeal is whether the Agency's denial due to excess income was correct. This Hearing Officer finds the Agency's actions to be appropriate based on the evidence submitted. It is recommended that the appeal be OVERRULED.

ISSUE #5/APPEAL #1209081 (OWE)

The Appellant was not disputing any action or inaction taken by the Agency regarding this program. No testimony was presented regarding the cash assistance program. It is recommended that this appeal be OVERRULED.

PROCEDURAL MATTERS

The Appellant's request for a state hearing was received by the State of Ohio on 12/27/04. The state hearing was scheduled for 01/27/05 with the scheduling notice being mailed to all parties on 01/14/05. No Appeal Summary was submitted to the Regional Office prior to the scheduled state hearing.

FINDING OF FACT

1. The household consists of the Appellant, the Appellant's spouse and their two minor children. There is no categorical eligibility nor is anyone in the household elderly or disabled .
2. The Appellant filed an application for Food Stamps with the Agency on 12/10/04.
3. At the time of application the Appellant reported her spouse was employed with fluctuating income.
4. The Agency averaged the spouse's submitted pay stubs and arrived at a monthly average of \$2,545.

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5. The AG's monthly income exceeds the gross income standard of \$2,043 for a four person AG.
6. Denial of Foods Stamps due to gross income is found to be appropriate.

CONCLUSIONS OF POLICY

Policy

Except for the exclusions and payments which are listed in rule 5101:4-4-13 of the Administrative Code, all payments received by the AG members are income for Food Stamp purposes. Income is categorized as earned or unearned.

Ohio Admin. Code § 5101:4-4-19 (June 2003)

For the purpose of determining the AG's eligibility and monthly benefit, the county agency shall take into account the income already received by the AG during the certification period and any anticipated income the AG and the county agency are reasonably certain will be received during the remainder of the certification period. If the exact amount of the income is not known, that portion of it that is anticipated with reasonable certainty is considered income. In cases where the receipt of income is reasonably certain but the monthly amount may fluctuate, the county agency must average income.

Income received during the past thirty days shall be used as an indicator of the income that is and will be available to the AG during the certification period. However, the county agency shall not use past income as an indicator of income anticipated for the certification period if changes in income have occurred or can be anticipated.

To average income, the county agency shall use the AG's anticipation of income fluctuations over the certification period.

Participation in the Food Stamp program shall be limited to those AGs whose incomes are determined to be a substantial limiting factor in permitting them to obtain a more nutritious diet.

AGs shall meet the gross and net income eligibility standards as described in this rule unless at least one member is elderly or disabled (as defined in rule 5101:4-1-03) of the Administrative Code) or the AG is considered categorically eligible.

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Ohio Admin. Code § 5101:4-4-31 (May 2004)

Analysis

The Appellant acknowledged she submitted an application with the Agency for Food Stamp assistance on or about 12/10/04. The Appellant also acknowledged she submitted her spouse's current pay stubs at the same time. The Appellant is disputing the denial as she believes the Agency should have included a time period during the month of Nov. 2004 when the Appellant's spouse was laid off for approximately a one week period. The Appellant argued that the AG was under the gross income standard during the month of November 2004. However, the Appellant did not file an application for Food Stamps assistance until 12/10/04. At the time the Appellant filed the application her spouse had returned to work and she had submitted his last two pay stubs showing a gross income of \$638.00 received on 12/03/04 and a gross of \$547 received on 12/10/04. The Appellant's spouse anticipated working the entire month and did not anticipate another lay-off. However, the Appellant still disputes the fact that the Appellant did not look at November's income. As cited above, income for Food Stamp purposes is based on anticipated income for the AG. This Hearing Officer cannot find that the Agency erred in handling the Appellant's case. The Appellant acknowledged that the AG was actually over income for the month December because her spouse remained employed. However, the Appellant still believes the agency should not have anticipated he would remain employed. This Hearing Officer finds the denial due to anticipated income to be correct and recommends the appeal be **OVERRULED**.

As stated above in the Issue Section, no testimony was presented regarding any other programs. Therefore, it is recommended that these appeals be **OVERRULED**. It is noted that the Appellant reported she was employed until the end of November 2004. She now considers herself disabled, however, no application has been filed for Social Security Disability. The Appellant was advised of the eligibility requirements for Medicaid for the Disabled and her need to file an application for this program if she is fact is alleging a disability.

HEARING OFFICER'S RECOMMENDATION

Based on the record before me, I find

ISSUE #1/APPEAL #1209085 (MA-C) should be OVERRULED.

ISSUE #2/APPEAL #1209084 (MA-P) should be OVERRULED.

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ISSUE #3/APPEAL #1209083 (MA-Y) should be OVERRULED.

ISSUE #4/APPEAL #1209082 (FS) should be OVERRULED.

ISSUE #5/APPEAL #1209081 (OWF) should be OVERRULED.

FINAL ADMINISTRATIVE DECISION AND ORDER

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

ISSUE #1/APPEAL #1209085 (MA-C) is OVERRULED.

ISSUE #2/APPEAL #1209084 (MA-P) is OVERRULED.

ISSUE #3/APPEAL #1209083 (MA-Y) is OVERRULED.

ISSUE #4/APPEAL #1209082 (FS) is OVERRULED.

ISSUE #5/APPEAL #1209081 (OWF) is OVERRULED.

APPENDIX

Agency's Exhibits

A. Employment Information Screen.

Appellant's Exhibits

1. Appellant's State Hearing Request

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Date Issued: 03/04/2005