

IN THE OHIO DEPARTMENT OF JOB AND FAMILY SERVICES
BUREAU OF STATE HEARINGS

ADMINISTRATIVE APPEAL SECTION

IN RE APPEAL OF:

DOCKET NO.	2006-AA-0242
APPEAL No(S).	1267905 / MED
AG No.	
HEARING REQUEST DATE:	01/20/2006
HEARING DECISION DATE:	02/15/2006 / LCM
APPEAL REQUEST DATE:	03/06/2006

AGENCY: **Franklin** CDJFS

Administrative Appeal Decision

The Appellant's representative requests an administrative appeal of the state hearing decision issued on February 15, 2006. The state hearing decision overruled the Appellant's appeal finding that the Agency correctly calculated the Appellant's patient liability.

The facts of this case are not at issue. The Appellant receives a total gross monthly income of \$2174. Due to federal collection of outstanding student loans her monthly income is reduced to \$1845. The Agency calculated the Appellant's patient liability to the nursing home based on the gross monthly income. The patient liability of \$2134 exceeds the monthly income that the Appellant actually receives.

In general, garnishments or support withholding orders do not reduce the gross amount of a source of earned or unearned income that is countable for Medicaid purposes, even if the result is that more income is counted than is actually available.¹ But an "assistance group must actually be receiving the payment (of unearned income) in order to have it included...(and) the amount of unearned income to be considered is the amount actually received rather than the gross amount..."² In the present case, the testimony indicates that because due to federal collection of outstanding student loans, the Appellant's monthly income has been reduced. The monthly reduction in the interim is not the result of a support withholding order or garnishment proceeding pursuant to ORC Chapter 2716 or any like process. Therefore, the Appellant's patient liability budget must be based on her net received after the student loan amount is deducted.

¹ OAC 5101:1-39-08(C),(E)

² OAC 5101:1-39-16(B),(C)

DECISION

Accordingly we must ORDER that the hearing decision be REVERSED and COMPLIANCE issue to the agency to discuss recompute the Appellant's patient liability budget in accordance with this decision and advise her accordingly. The agency is directed to send the Appellant written notice of the action taken as a result of this decision via an ODJFS 4074, 4065, 7334, 7401, 4701 or other appropriate state form. The agency is to attach a copy of this notice to the ODJFS 4068 State Hearing Compliance form. The Appellant retains all state hearing rights regarding any future agency determination.



Margaret Adams
Administrative Appeal Officer

CONCUR

Robert J. Frankart
Administrative Appeal Officer



Robert Mulinax, Attorney-at-Law
Chief Legal Counsel

DATE OF ISSUANCE March 20, 2006

This Administrative Appeal decision is the final decision on this appeal from the state department of job & family services. It is binding on the department and agency, unless it is reversed or modified on appeal to the court of common pleas.

An Appellant who disagrees with this decision may appeal it to the court of common pleas pursuant to sections 119.12 and 5101.35(E) of the Revised Code. The Appellant shall mail a notice of appeal to the department at the following address:

**Ohio Department of Job & Family Services
Office of Legal Services
30 E. Broad Street, 31st Floor
Columbus, OH 43215-3414**

The Appellant must also file the notice of appeal with the court of common pleas in the county in which the Appellant resides (Franklin County, if the Appellant does not reside in Ohio). Please note: Both the mailing to the department and the filing with the court must occur within thirty (30) calendar days of the date of issuance of this decision.

If you have questions about appealing to a court, contact your attorney, local legal aid society, or bar association. If you want information about free legal services, you can call the Ohio State Legal Services Association, toll free, at 1-800-589-5888.

cc: Director, Franklin County Department of Job and Family Services
Hearings Supervisor, LCM, Bureau of State Hearings
Mary Mynatt
Appellant