

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

In the matter of:

<u>Appeal:</u>	<u>Program:</u>	<u>Disposition:</u>
1266098	FS	OVERRULED
No Compliance Required		
Decision Date:	03/01/2006	
Request Date:	01/06/2006	
Hearing Officer:	DEBRA MARTEN	

State Hearing Decision

ISSUE SECTION

Appeal 1266098 – FOOD STAMPS

Able-Bodied Adults Without Dependents (ABAWD) may participate in the Food Stamp program for only three months during a thirty-six month period unless they are participating in a work requirement or meet an exemption to the ABAWD rules. Appellant has been a recipient of Food Stamps through Lorain County Job & Family Services (Agency). Agency terminated Appellant's Food Stamps as of 12/31/05 for being an ABAWD and receiving three out of thirty-six months without work participation or meeting an ABAWD exemption and for return mail for Appellant.

The termination is found to be correct as Appellant received Food Stamps for the months of 08/05 through 12/31/05 without participating in a work requirement or meeting an ABAWD exemption and because the Agency had return mail for Appellant. This appeal should be **OVERRULED**.

PROCEDURAL MATTERS

The Bureau of State Hearings received Appellant's request for a state hearing on 01/06/06. The state hearing was originally scheduled for 01/24/06. Appellant reported to the Bureau of State Hearings on 02/08/06 that he had not received the scheduling notice. The state hearing was rescheduled and held as a telephone hearing on 02/21/06. The parties were sworn in for testimony. N. Laquesta, Income Maintenance Worker 3, provided testimony on behalf of the Agency.

FINDINGS OF FACT

1. Appellant was in receipt of Food Stamps through the Agency until 12/31/05.
2. Appellant was employed and received his last check in 07/05.
3. Agency reported the loss of employment to the Agency on 08/15/05. The change in the Food Stamps was made effective 09/01/05.
4. A notice of expiration was mailed to Appellant on 11/07/05. This notice was returned to the Agency as undeliverable.

STATE HEARING DECISION CONTINUATION

5. An appointment notice was mailed to Appellant on or about 11/16/05 for a reapplication appointment.
6. Agency had 2 pieces of return mail for Appellant.
7. Food Stamps terminated 12/31/05.

CONCLUSIONS OF POLICY

In order to fulfill the Food Stamp work requirement, an individual must work an average of twenty hours or more per month, participate in a work program an average of twenty hours or more per month, performs a total of twenty hours or more per month through a combination of work and work program activities, or participate in the "Workfare" program. **Ohio Admin. Code § 5101:4-3-20 (A) (1) (2004) & 7 C.F.R. 273.7 (2005)**. As a general rule, no individual is eligible to participate in the Food Stamp program for more than three countable months during any three- year period. **Ohio Admin. Code § 5101:4-3-20 (B) (2004)**. A countable month is a month in which an individual receives a full month's benefit while not fulfilling the work requirement. **Ohio Admin. Code § 5101:4-3-20 (B) (1) (b) (2004) & 7 C.F.R. 273.7 (2005)**.

An individual may be exempted from this time limit if they are (1) under eighteen or over fifty years old; (2) medically certified as physically or mentally unfit for employment; (3) a parent or other AG member responsible for a dependent child; (4) residing in an AG where an AG member is under age eighteen; (5) exempted under Ohio Admin. Code § 5101:4-3-11; (6) pregnant; or residing in a county where the time limit is waived. **Ohio Admin. Code § 5101:4-3-20 (C) (2004) & 7 C.F.R. 273.7 (2005)**.

An ABAWD individual denied eligibility may regain eligibility to participate in the Food Stamp program if, during a thirty-day period, the individual: (1) works eighty or more hours; (2) participates in and complies with the requirements of a work program for eighty or more hours, as determined by the CDHS; or (3) participates in and complies with the requirements of a work fare program or a comparable program established by a State of political subdivision of a State. (4) An ABAWD individual who regains eligibility under paragraphs (C) (1) to (C)(3) of this rule shall remain eligible as long as the individual meets the requirements of paragraphs(A)(1) to (A)(3) of this rule. **Ohio Admin. Code § 5101:4-3-20 (2004 & 01/2006) & 7 C.F.R. 273.7 (2005)**.

The hearing officer's finding of fact shall be based exclusively on the evidence introduced at the hearing. It shall be the responsibility of the agency to show, by a preponderance of the evidence, that its proposed action(s) are in accordance with the rules. **Ohio Admin. Code § 5101:6-7-01 (C) (2003)**.

In this case, the Appellant received Food Stamps from 8/05-12/31/05 without participating in a work requirement. Appellant's Food Stamp benefits ended 12/31/05 based on having received three out of thirty six months of benefits as an ABAWD and for return mail to the Agency for Appellant. Appellant's address has since been resolved. In accordance with the above-mentioned regulations, Appellant does not meet an exception to the three month limitation as an ABAWD. He did not meet the work requirement for Food Stamps as of his employment ending in 07/05. Appellant received Food Stamps for the months of 08/05 through 12/31/05 without meeting the work participation. Therefore, the termination of the Appellant's Food Stamps is correct and in accordance with the regulations.

STATE HEARING DECISION CONTINUATION

Appellant is advised he may reapply for Food Stamps and meet the above stated work participation in order for his Food Stamps to be reinstated.

HEARING OFFICER'S RECOMMENDATION

Appeal 1266098 – FOOD STAMPS

Based on the record before me, I recommend the appeal 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 **appeal 1266098 is OVERRULED**.

March 1, 2006

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.

Aviso a la Apelante

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.

STATE HEARING DECISION CONTINUATION

Appendix

Appeal summary

Appellant Exhibits

1. State hearing request (1 page)
2. Letter from Urban League regarding need for food (1 page)

CDJFS Exhibits

- A. Important Notices (returned mail) dated 11/07/05 (2 pages)
- B. Copy of Appellant's driver's license (1 page)
- C. Postal verification (1 page)
- D. Landlord statement (1 page)
- E. IQFS – Food Stamp Issuance History screen for 08/05 to 12/05