

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

In the matter of:

<u>Appeal:</u>	<u>Program:</u>	<u>Disposition:</u>
1266633	MED	SUSTAINED
1266634	FS	SUSTAINED

Compliance Required

Decision Date:	03/17/2006
Request Date:	01/11/2006
Hearing Officer:	VIRGINIA M. RINGEL

State Hearing Decision

ISSUE SECTION

The Agency, the Montgomery County Department of Job and Family Services, terminated the Appellant's food stamp and Covered Families and Children Medicaid eligibility because the Agency determined that the Appellant failed to provide the income verification requested by the date that verification was due. The Appellant requested this state hearing, to contest the Agency's action as she feels she did supply the information requested by the Agency, and therefore her food stamp (Appeal number 1266634) and Medicaid (Appeal number 1266633) eligibility should have continued. The issue of this state hearing is whether the Agency has shown its termination to be consistent with program regulations.

After careful consideration of the evidence and testimony presented at this state hearing, I found that the Appellant did supply the Agency with the requested documents, prior to the date they were due. Therefore, I recommended that this appeal be sustained and eligibility for food stamps and Medicaid should be restored.

PROCEDURAL MATTERS

The Appellant made a request for hearing orally to the Agency January 11, 2006. The request was reduced to writing and sent to the Bureau of State Hearings that same day. A state hearing was originally scheduled to be held January 31, 2006, was rescheduled to be held February 23, 2006, and was again rescheduled and held Monday, March 13, 2006 at the Montgomery County Job Center. Present and testifying under oath were the Appellant and Gwen Brooks, the Agency's representative.

FINDINGS OF FACT

1. November 29, 2005, the Agency requested verification of the Appellant's income, which was due December 9, 2005.

STATE HEARING DECISION CONTINUATION

2. December 8, 2005, the Agency received employment verification from the Appellant's employer.
3. December 13, 2005, the Agency sent notice, terminating the Appellant's household's food stamp and Medicaid eligibility effective December 31, 2005, because the Appellant failed to submit verification of her income from her employment.

CONCLUSIONS OF POLICY

The Agency representative is the advocate for the Agency during a state hearing, and is responsible for presenting the Agency's case.¹ The Agency therefore, bears the burden of showing by a preponderance of the evidence that the Agency's actions being contested at a state hearing are within the guidelines of the governing regulations.²

Here, the issue in dispute is whether the Appellant submitted the verifications the Agency requested so that her ongoing eligibility for food stamps and Medicaid could be determined. The running record comments submitted by the Agency clearly show that the Agency received the requested employment verification from the Appellant before proposing to terminate her eligibility. Although the Agency would have been correct to terminate the Appellant's eligibility had she failed to supply verification of her income as required³, the Appellant did not. She cooperated, with the Agency's request for information, and therefore, the termination of her eligibility for food stamps and Medicaid was incorrect.

HEARING OFFICER'S RECOMMENDATION

Based on the record and Agency policy before me, I recommend that appeals 1266633 and 1266634 be sustained. I recommend that the Agency be required to restore Medicaid eligibility for the Appellant's household, back to the date of improper termination, January 1, 2006. I also recommend that the Appellant's food stamp eligibility be redetermined effective January 1, 2006, ongoing. The Appellant should be provided proper notice of the outcome of the determination of her eligibility.

FINAL ADMINISTRATIVE DECISION AND ORDER

Since I find that the Hearing Officer's recommendations are supported by policy and the evidence, I hereby adopt the recommendations. Thus, appeals 1266633 and 1266634 are sustained. The Agency is required to comply with the hearing officer's recommendations for corrective action, as state above.⁴

¹ Ohio Admin. Code § 5101:6-6-02 (A) (2003)

² Ohio Admin. Code § 5101:6-7-01 (C) (1) (b) (2003)

³ Ohio Admin. Code § 5101:1-38-02 (B) (3) and (6) (b) (2003) and Ohio Admin. Code § 5101:4-7-01 (G) (1) (c) (2005)

⁴ Ohio Admin. Code § 5101:6-7-03 (B) (2003)

STATE HEARING DECISION CONTINUATION



A. Ruben Lopez, Hearing Authority

March 17, 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.

Appendix

Appellant Exhibits:

1. State Hearing Request (one page)
2. Reschedule Request made January 25, 2006 (one page)
3. Reschedule Request made February 27, 2006 (one page)

Agency Exhibits:

- A. Running Record Comments (seven pages)
- B. Employment Verification Forms and fax cover sheets (six pages)
- C. Paycheck Stubs (four pages)
- D. Application/Reapplication Verification Request Checklist (one page)
- E. Pre-termination Review form (one page)
- F. Telephone/Walk-in Report (one page)
- G. Waiver of OWF (one page)
- H. Printed E-mail (one page)

Other Items Included in the Record:

State Hearing Scheduling Notice (one page)
Case Summary Report (one page)
Printed Notice History (CNHS) Screen (one page)
Printed Notice History Detail (CNHD) and Notice History Reason Code (CNRC) Screens (four pages)