

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

In the matter of:

<u>Case Number:</u>	<u>County:</u>	
5068093474	FRANKLIN	
<u>Appeal:</u>	<u>Program:</u>	<u>Disposition:</u>
1320519	FS	SUSTAINED
Compliance Required		
Decision Date:	03/20/2007	
Request Date:	12/04/2006	
Hearing Officer:	JOAN VIOLANTE	

State Hearing Decision

ISSUE SECTION

Appeal Number 1320519 – Food Stamps

By notice mailed 11/27/06, the Agency proposed to reduce the Appellant's food stamp benefit amount from \$66 to \$56 effective 1/1/07. The issue of the hearing is whether the Agency has correctly determined the food stamp allotment.

During the hearing, the Agency agreed to redetermine the food stamp allotment upon receipt of verification of incurred utility expenses. Therefore, I recommend that the appeal be sustained with the Agency required to redetermine food stamp eligibility.

PROCEDURAL MATTERS

The request for a state hearing was received 12/4/06. The hearing was originally scheduled for 12/27/06. The Appellant was unable to attend the 12/27/06 hearing. The hearing was then rescheduled for 1/11/07 and then 2/7/07. Upon request of the Appellant, the hearing was rescheduled a third time, and was conducted on 3/6/07. Participating and testifying under oath during the hearing were the Appellant and Sheryl Johnson, an Agency representative. Appeal Summaries were received on 12/13/06 and 2/9/07.

FINDINGS OF FACT

1. The assistance group consists of the Appellant, age 67.
2. The Appellant receives Retirement, Survivors, and Disability Insurance (RSDI) of \$688 (gross) per month.
3. The Appellant pays \$288 for rent. She incurs expenses for utilities for heating/cooling.
4. The Appellant's sister's name is on the lease; however, the Appellant's sister does not reside with the Appellant and does not pay for utilities.
5. The Appellant's Medicare premium is paid by the state of Ohio. The Appellant does not currently incur medical expenses in excess of \$35 per month.
6. The Agency determined the food stamp benefit amount by using unearned income of \$688 (RSDI); the \$134 standard deduction; \$288 rent; and ½ of the standard utility allowance (\$214.50). This resulted in a net adjusted income of \$329. The standard utility

STATE HEARING DECISION CONTINUATION

allowance was prorated due to the Agency's determination that the Appellant lives with a roommate and shares utility expenses.

7. By notice mailed 11/27/06, the Agency proposed to reduce the Appellant's food stamp allotment from \$66 to \$56 effective 1/1/07.
8. During the hearing, the Agency agreed to redetermine the food stamp allotment upon receipt of verification of utility expenses incurred by the Appellant.

CONCLUSIONS OF POLICY

Food Stamps

For the purpose of determining eligibility and monthly benefit, the Agency shall take into account income received by the assistance group and any anticipated income the assistance group and the Agency are reasonably certain will be received during the remainder of the certification period. Net monthly income is then determined by applying the appropriate deductions. Ohio Admin. Code § 5101:4-4-31 (2004) Examples of allowable deductions include: a standard deduction (\$134 for a household of one), and shelter and utilities. A standard utility allowance (SUA) was developed by the Ohio Department of Job and Family Services (ODJFS). The SUA includes the costs of heating fuel, electricity, water, sewer, trash collection, and telephone service. To be entitled to the SUA, the assistance group must incur verified heating and/or cooling expenses apart from their rent or mortgage. The current SUA is \$429. If an AG lives with and shares the costs covered under the definition of standard utility allowance with another individual, another AG or both, the county agency must prorate the SUA among the AG and the other individual, AG, or both. A deduction shall also be allowed for that portion of medical expenses which is nonreimbursable, in excess of \$35 per month, excluding special diets, incurred by an assistance group member who is elderly or disabled. Ohio Admin. Code § 5101:4-4-23 (2005)

Net monthly income is used to determine the monthly allotment based on the basis of coupon issuance tables, which contain coupon allotments by assistance group size and income. The allotment may also be determined manually by multiplying the net income by thirty percent, rounding the result up to the nearest whole dollar, then subtracting that amount from the maximum food stamp allotment (\$155 for a household of one). Ohio Admin. Code § 5101:4-5-01, and § 5101:4-5-01, Appendix A (2005)

Ohio Admin Code § 5101:6-6-02 provides that the agency representative presents and is the advocate for the agency's case at the hearing. The hearing officer's findings of fact shall be based exclusively on the evidence introduced at the hearing. Ohio Admin. Code § 5101:6-7-01 (2003)

Here, the Agency determined the food stamp benefit amount by using unearned income of \$688 (RSDI); the \$134 standard deduction; \$288 rent; and ½ of the standard utility allowance (\$214.50). This resulted in a net adjusted income of \$329. The standard utility allowance was prorated because the Agency was under the impression that the Appellant has a roommate. Although the Appellant's sister's name is on the lease, the Appellant resides alone and pays for all utilities. During the hearing, the Agency agreed to redetermine the food stamp allotment upon receipt of verification of utility expenses incurred by the Appellant. Therefore, I find that the Agency should make a new determination upon receipt of the necessary documentation.

HEARING OFFICER'S RECOMMENDATIONS

STATE HEARING DECISION CONTINUATION

Based on the record before me, I find that appeal number 1320519 should be sustained with compliance ordered. The Agency is directed to allow the Appellant a reasonable amount of time to verify incurred shelter/utility expenses. The Agency shall then redetermine food stamp eligibility, providing proper notice of the result.

FINAL ADMINISTRATIVE DECISION AND ORDER

Finding the hearing officer's decision to be supported by policy and the evidence, I adopt the hearing officer's recommendations. Thus, appeal number 1320519 is SUSTAINED. Compliance is required. Compliance with this state hearing decision is hereby required pursuant to Ohio Admin. Code § 5101:6-7-03 (2003).

Hearing Authority

March 20, 2007

Notice to Appellant

This is the official report of your hearing and is to inform you of the decision and order in your case. All papers and materials introduced at the hearing or otherwise filed in the proceeding make up the hearing record. The hearing record will be maintained by the Ohio Department of Job and Family Services. If you would like a copy of the official record, please telephone the hearing supervisor at the COLUMBUS District hearing section at 1-866-635-3748.

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, OH 43218-2825 or fax: (614) 728-9574. Your request should include a copy of this hearing decision and an explanation of why you think it is wrong. Your written request 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 may request a free copy of the tape recording of the hearing by contacting the district hearings section.

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

Appellant's Exhibits

1 – State Hearing Request (1 page)

Agency Exhibits

A – Appeal Summary (2 pages)

B – Notice history/detail (2 pages)

C – Monthly unearned income screen (1 page)

D – AG authorization screen (1 page)

E – Financial eligibility summary (1 page)

F – Food stamp budget screens (3 pages)