

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

In the matter of:

<u>Case Number:</u>	<u>County:</u>	
5001685220	MEDINA	
<u>Appeal:</u>	<u>Program:</u>	<u>Disposition:</u>
1386338	OWF	SUSTAINED
1386339	FS	SUSTAINED
1386340	MED	SUSTAINED
Compliance Required		
Decision Date:	03/28/2008	
Request Date:	12/03/2007	
Hearing Officer:	WANDA WILSON	

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State Hearing Decision

**ISSUE SECTION**

I (APPEAL 1386338 OHIO WORKS FIRST PROGRAM)

II (APPEAL 1386339 FOOD STAMP PROGRAM)

III (APPEAL 1386340 COVERED FAMILIES AND CHILDREN MEDICAID (CFC MEDICAID) PROGRAM)

The Medina County Department of Job and Family Services (CDJFS) terminated the Appellant's Ohio works first cash assistance effective August 31, 2007 and removed Appellant from the CFC Medicaid coverage effective September 1, 2007 because it was determined that the Appellant failed to cooperate with the child support enforcement agency in establishing paternity. State hearing decision issued October 22, 2007 sustained the appeals and directed the CDJFS to reinstate Ohio works first and CFC Medicaid, if all other eligibility factors are met.

In determining if all other eligibility factors are met, the CDJFS requested the Appellant verify income by November 5, 2007 and again by November 15, 2007. The income verification was not received and the CDJFS generated notice mailed November 16, 2007 to deny a "September 1, 2007" Ohio works first program application and to terminate Food Stamp benefits and CFC Medicaid effective December 31, 2007 because income has not been verified.

The Appellant requested a state hearing and county conference because she disagrees with the CDJFS adverse action.

After considering testimony and evidence provided at hearing and considering the policy applicable in the Appellant's appeal, the Hearing Officer concludes that the Appellant did not provide requested verification of income and without the income verification Ohio Works First and CFC Medicaid program eligibility could not be determined. The CDJFS was complying with an October 22, 2007 state hearing decision and this decision did not direct the CDJFS to determine if all other program eligibility requirements were met for food stamp purposes. The Hearing Officer is persuaded that good cause is established for the Appellant not providing the

## STATE HEARING DECISION CONTINUATION

requested verification. The Hearing Officer concludes that the CDJFS denial of Ohio works first and termination of food stamp benefits and CFC Medicaid because income has not been verified is premature and not upheld as being in accordance with applicable policy.

The Hearing Officer recommends that Appeals 1386338, Ohio Works First, 1386339, Food Stamp and 1386340 CFC Medicaid be sustained with compliance required.

### **PROCEDURAL MATTERS**

Notice of denial and termination and right to state hearing was mailed November 16, 2007. The Ohio Department of Job and Family Services (ODJFS), Bureau of State Hearings received the Appellant's request for state hearing and county conference on December 5, 2007. The CDJFS did not convene a county conference as set forth at Ohio Admin. Code § 5101:6-5-01(C) (2003). State hearing scheduling notices were mailed December 13, 2007, January 9, and February 21, 2008 scheduling and rescheduling the state hearing for December 24, 2007, January 23, and March 7, 2008. The state hearing was conducted by speaker phone on March 7, 2008, beyond the ninety day timely period. The ODJFS received an appeal summary from the CDJFS on December 13, 2007.

The Appellant represented herself at the state hearing. The CDJFS was represented at the state hearing by Ms. Stephanie Wheeler, Eligibility Worker and Ms. Katie Strah, Eligibility Worker.

### **FINDINGS OF FACT**

1. The CDJFS terminated the Appellant's Ohio works first cash assistance effective August 31, 2007 and removed her from the CFC Medicaid coverage effective September 1, 2007 because of failure to cooperate in establishing paternity.
2. The Appellant requested a state hearing to address the adverse action and state hearing decision issued October 22, 2007, sustained the Ohio works first and CFC Medicaid appeals and instructed the CDJFS to reinstate these benefits, if all other program eligibility actors are met.
3. In determining whether all other program eligibility factors were met, the CDJFS sent the Appellant a Request for Contact dated October 25, 2007 requesting she provide all pay stubs for September 2007 and all pay stubs received for October 2007 due by November 5, 2007.
4. The CDJFS sent the Appellant an Ohio works first assessment appointment letter on October 25, 2007 scheduling the assessment appointment for November 5, 2007.
5. The Appellant asserts her intentions were to provide the pay stubs at the November 5, 2007 assessment appointment; however, this appointment was canceled and rescheduled; she later learned the pay stubs were not immediately available to her.
6. The CDJFS sent the Appellant a Request for Contact dated November 5, 2007 requesting she provide all pay stubs for September and October 2007 due by November 15, 2007.
7. The CDJFS sent the Appellant an Ohio works first assessment appointment letter on November 5, 2007 rescheduling the assessment appointment for November 15, 2007.
8. The Appellant did not keep the November 15, 2007 assessment appointment and did not provide the pay stubs.
9. The CDJFS generated notice of adverse action mailed November 16, 2007 denying Ohio works first and terminating food stamp benefits and CFC Medicaid coverage.

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10. The Appellant testified that a December 4, 2007 appointment was scheduled by canceled by the CDJFS.
11. The State Hearing Decision issued October 22, 2007, which the CDJFS was to comply with, did not address a Food Stamp program issue and the CDJFS was not directed in the Decision to take any action on food stamp benefits.
12. The Appellant asserts her pay information has been put on line and it is available to her; however, in answer to the Hearing Officer's question, she testified that she did not have the pay stubs with her at hearing.

**CONCLUSIONS OF POLICY**

**Policy**

Ohio Admin. Code § 5101:1-23-20 (2006) speaks to income and eligibility for Ohio works first and states in part that the assistance group is ineligible to participate in Ohio works first if the assistance group's gross income exceeds the applicable income standard.

Ohio Admin. Code § 5101:1-2-01 (2005) states in part that failure to cooperate in the verification requirements shall result in a denial of Ohio works first. Failure occurs when the information/verification is not provided after the CDJFS properly advised what information/verification is needed to determine eligibility provided no request for assistance in obtaining information/verification is received by the CDJFS; or when the CDJFS is not given necessary information to assist in obtaining the verification needed to determine eligibility.

Ohio Admin. Code § 5101:4-2-09 (2006) and 7 Code of Federal Regulations (CFR) 273.2 (1978) speak to the verification procedure in the Food Stamp program and state in part that mandatory verification for normal certifications includes verification of gross non-exempt income. The assistance group has primary responsibility for providing documentary evidence to support its statements and resolve any questionable information. The CDJFS shall assist the assistance group in obtaining this verification provided the assistance group is cooperating with the CDJFS and has not refused to cooperate.

Ohio Admin. Code § 5101:1-38-02 (2007) speaks to verification in the Medicaid program and states in part that non-cooperation is failure by an individual to present required verifications or explain why it is not possible to present the verifications, after being notified that the verification was required for eligibility determination.

Good cause means circumstances that reasonably prevented an individual from cooperating with the CDJFS in the eligibility determination process. Factors relevant to good cause include, but are not limited to: natural disasters; riots or civil unrest; death or serious illness of the individual or a member of his/her immediate family; or the physical, mental, educational, or linguistic limitations of the individual.

**Analysis**

State Hearing Decision issued October 22, 2007 addressed the CDJFS termination of Ohio works first and removal of Appellant from coverage under CFC Medicaid. The decision did not address any issue related to the Food Stamp program and the CDJFS was not directed to take any action on the food stamp case. The Decision directed the CDJFS to reinstate Ohio works first

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and CFC Medicaid, if all other eligibility factors are met. The CDJFS set about to determine if all other eligibility factors were met and requested the Appellant provide verification of income due by November 5, and November 15, 2007. The requested verification was not provided and the CDJFS issued notice to deny Ohio works first and terminate food stamp benefits and CFC Medicaid.

The Appellant testified that she was going to provide the income verification at the November 5, 2007 assessment appointment; however, this appointment was rescheduled to November 15, 2007. She did not keep the November 15, 2007 appointment. She testified that she received another appointment letter for December 4, 2007 and a letter from the Eligibility Worker to disregard the appointment. She testified that she did not have the pay stubs readily available to her and this is why she did not send them in immediately. She testified that her employer has made all her pay stubs available to her on line.

The Hearing Officer concludes that the Appellant did not provide income verification requested by the CDJFS and the CDJFS could not determine if all other eligibility factors were met for Ohio works first and CFC Medicaid. The Appellant learned that the pay stubs were not immediately available to her. This delay was not reported to the CDJFS nor was assistance requested from the CDJFS in obtaining the income verification, and the CDJFS was not aware of circumstance that caused a delay in Appellant obtaining the income verification. The CDJFS was not required to determine if all other eligibility factors were met for food stamp benefits and provided nothing to establish that eligibility factors needed to be verified.

The Hearing Officer is persuaded that the Appellant was experiencing a delay in obtaining pay stubs for September and October 2007. The Hearing Officer is persuaded that the income information is now posted on line and would be available. The Hearing Officer concludes that the CDJFS will now need to afford the Appellant opportunity to obtain the pay stubs for September and October 2007; or, obtain written authorization to obtain the pay stubs; and if all other Ohio works first and CFC Medicaid program eligibility factors are met, institute the Appellant on Ohio works first and CFC Medicaid. The CDJFS will need to reinstate the Appellant's food stamp benefits immediately upon receipt of this state hearing decision beginning January 1, 2008.

**HEARING OFFICER'S RECOMMENDATION**

I (APPEAL 1386338 OHIO WORKS FIRST PROGRAM) Based on the record and Agency policy before me, I recommend that appeal 1386338 be sustained and the CDJFS be directed to afford the Appellant opportunity to submit the pay stubs or, if indicated, obtain the pay stubs; determine if all other eligibility requirements are met for Ohio works first and if so, institute the Appellant on the Ohio Works First program the first of the month following issuance of this decision; and determine if all other eligibility requirements are met for Ohio works first beginning September 1, 2007, and if so, process corrective Ohio works first beginning September 1, 2007 and each month following up to and including the month preceding the month the Appellant is instituted on Ohio works first; and send the Appellant written notice of action taken as the result of this state hearing decision.

The Appellant retains the right to a state hearing if she disagrees with the CDJFS Ohio works first eligibility determination.

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II (APPEAL 1386339 FOOD STAMP PROGRAM) Based on the record and Agency policy before me, I recommend that appeal 1386339 be sustained and the CDJFS be directed to reinstate the assistance group on the Food Stamp program the first of the month following issuance of this decision; and process corrective food stamp benefits beginning January 1, 2008 and each month following up to and including the month preceding the month food stamp benefits are reinstated; and send the Appellant written notice of action taken as the result of this state hearing decision.

The Appellant retains the right to state hearing if she disagrees with the CDJFS action to reinstate food stamp benefits.

III (APPEAL 1386340 COVERED FAMILIES AND CHILDREN MEDICAID (CFC MEDICAID) PROGRAM) Based on the record and Agency policy before me, I recommend that appeal 1386340 be sustained and the CDJFS be directed to afford the Appellant opportunity to submit the pay stubs or, if indicated, obtain the pay stubs; and determine if all other eligibility requirements are met for CFC Medicaid and if so, institute the Appellant on the CFC Medicaid program the first of the month following issuance of this decision; and determine if all other eligibility requirements are met for CFC Medicaid beginning January 1, 2008, and if so, process CFC Medicaid coverage beginning January 1, 2008 and each month following up to and including the month preceding the month the Appellant is instituted on CFC Medicaid; and send the Appellant written notice of action taken as the result of this state hearing decision.

The Appellant retains the right to a state hearing if she disagrees with the CDJFS CFC Medicaid eligibility determination.

**FINAL ADMINISTRATIVE DECISION AND ORDER**

I (APPEAL 1386338 OHIO WORKS FIRST PROGRAM) Since I find that the Hearing Officer's recommendation is supported by policy and the evidence, I hereby adopt the recommendation. Thus, appeal 1386338 is sustained. The CDJFS is required to comply with the Hearing Officer's recommendations. Ohio Admin. Code § 5101:6-7-03(B)(1)(a) (2003) requires compliance with this decision within fifteen calendar days from the date of this decision, but no later than ninety calendar days from the request date. Compliance shall be promptly reported to ODJFS, Bureau of State Hearings via JFS 04068 compliance form with supporting documentation, including all notices sent to the Appellant.

II (APPEAL 1386339 FOOD STAMP PROGRAM) Since I find that the Hearing Officer's recommendation is supported by policy and the evidence, I hereby adopt the recommendation. Thus, appeal 1386339 is sustained. The CDJFS is required to comply with the Hearing Officer's recommendations. Ohio Admin. Code § 5101:6-7-03(B)(1)(b) (2003) requires compliance with this decision within ten calendar days of receipt, even if the CDJFS must provide a supplement outside the normal issuance cycle. Compliance shall be promptly reported to ODJFS, Bureau of State Hearings via JFS 04068 compliance form with supporting documentation, including all notices sent to the Appellant.

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III (APPEAL 1386340 COVERED FAMILIES AND CHILDREN MEDICAID (CFC MEDICAID) PROGRAM) Since I find that the Hearing Officer's recommendation is supported by policy and the evidence, I hereby adopt the recommendation. Thus, appeal 1386340 is sustained. The CDJFS is required to comply with the Hearing Officer's recommendations. Ohio Admin. Code § 5101:6-7-03(B)(1)(a) (2003) requires compliance with this decision within fifteen calendar days from the date of this decision, but no later than ninety calendar days from the request date. Compliance shall be promptly reported to ODJFS, Bureau of State Hearings via JFS 04068 compliance form with supporting documentation, including all notices sent to the Appellant.

Hearing Authority

March 28, 2008

**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 CANTON 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**

**CDJFS EXHIBITS**

- A. CDJFS Appeal Summary and Pre-Hearing Checklist dated December 11, 2007, Three Pages
- B. CDJFS Copy of the Appellant's December 3, 2007 Request for State Hearing and County Conference, One Page
- C. CDJFS Request for Contact Mailed October 25, 2007, One Page
- D. CDJFS Form Letter Scheduling Appellant for a November 5, 2007 Ohio Works First Assessment, One Page
- E. CDJFS Request for Contact Mailed November 5, 2007, One Page
- F. CDJFS Form Letter Scheduling Appellant for a November 15, 2007 Ohio Works First Assessment, One Page
- G. CDJFS Employer Verification Form, One Page
- H. CNHD Notice History Detail Screens, Notice of CFC Medicaid and Food Stamp Termination and Notice of Ohio Works First Denial Mailed January 16, 2007, Three Pages
- I. CLRC Running Record Comments Screens dated December 11, 2007
- J. State Hearing Decision Issued October 22, 2007, Six Pages

**APPELLANT EXHIBIT**

- 1. Appellant's Request for State Hearing and County Conference dated December 3, 2007, One Page