

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

In the matter of:

<u>Case Number:</u>	<u>County:</u>	
5017086538	CUYAHOGA	
<u>Appeal:</u>	<u>Program:</u>	<u>Disposition:</u>
1444765	FS	WITHDRAWAL
1444766	DMA	OVERRULED
No Compliance Required		
Decision Date:	03/17/2009	
Request Date:	10/27/2008	
Hearing Officer:	CYNTHIA ASHTON	

State Hearing Decision

ISSUE SECTION:

Appeal #1444765

Appellant indicated that he wished to file a new application for Food Assistance (FA) benefits and signed a written withdrawal regarding this appeal. Therefore, the appeal is **WITHDRAWN**.

Appeal #1444766

The Cuyahoga County Department of Job and Family Services (Agency) proposed to terminate Appellant's Disability Medical Assistance (DMA) effective 11/30/08 due to earned income in excess of program eligibility standards. Is the proposed termination correct? Based on the information available to the Agency at the time of the eligibility determination, the proposed termination is correct. Therefore, I recommend that the appeal should be **OVERRULED**.

PROCEDURAL MATTERS:

An adverse action notice was issued to the Appellant on 10/17/08. Appellant disagreed with the notice and requested a state hearing on 10/27/08 (See Exhibit 1). A hearing scheduling notice was mailed to all parties on 11/12/08 and a state hearing was scheduled for 12/17/08 which Appellant did not attend. Upon a show of good cause, a second hearing scheduling notice was issued to all parties on 12/18/08 and the state hearing was rescheduled and heard on 01/27/09. The Appellant represented his assistance group (AG) at the state hearing; Nathaniel Albritton, Eligibility Specialist #7614, represented the Agency. The Agency submitted an Appeal Summary at the state hearing (See Exhibit A). Appellant signed a withdrawal regarding the Food Assistance appeal (See Exhibit 2).

FINDINGS OF FACT:

1. This AG consists of the Appellant, age 51, residing alone.
2. Appellant has been receiving Food Assistance (FA) benefits and Disability Medical Assistance (DMA).
3. Appellant is medication dependent.
4. Appellant alleges disabling conditions due to hypertension, problems with his back, shoulder, heart, kidneys, and mental problems.

STATE HEARING DECISION CONTINUATION

5. Agency received a new hire alert on 10/08/08 for employment for the Appellant at Legacy Staffing that began on 06/10/08.
6. Agency received an employment inquiry on 10/16/08 that verified that Appellant started working at Legacy Staffing on 06/10/08 earning \$8.70 per hour working 38 hours per week paid weekly.
7. The employer verified the following pays, listed by pay date: 09/12/08 (\$278); 09/19/08 (\$348); 09/26/08 (\$348); and 10/03/08 (\$278).
8. Agency determined the monthly gross earnings to be \$1,345 as follows: $\$278 + \$348 + \$348 + \$278 = \$1,252/4 = \313 average weekly pay multiplied by 4.3 weekly conversion factor = \$1,345 (See Exhibit B).
9. Appellant testified that he worked the temporary job registering voters because he needed money to pay back child support because he was trying to stay out of jail for non-support.
10. Agency determined the countable income to be \$547.50 as follows: \$1,345 total earned income minus \$250 work disregard equals \$1,095; \$1,095 divided by 2 = \$547.50 which exceeds the \$115 payment standard for one person (See Exhibit C).
11. Appellant has applied for Supplemental Security Income (SSI) and is in the appeal process.
12. Agency agreed to provide a medical packet to the Appellant so that his case can be referred to the Disability Determination Area in order to pursue Medicaid for the Disabled on his behalf.

CONCLUSIONS OF POLICY:

Policy:

Ohio Admin. Code § 5101:1-42-01(2006) states, in part, that the Disability Medical Assistance program provides medical assistance to persons who are medication dependent and ineligible for any category of Medicaid. Disability Medical Assistance eligibility is contingent upon an individual meeting the definition of "medication dependency" and having income below the \$115 Disability Financial Assistance standard (Ohio Admin. Code 5101:1-5-40 (2006/2009)).

The determination of eligibility for Disability Financial Assistance is dependent upon the amount of income received by the family group. Only available income received by the family group is considered in determining eligibility for the Disability Financial Assistance assistance groups within the family group.

Countable monthly income is defined as the family group's gross monthly nonexempt earned and/or unearned income less appropriate disregards. The amount of countable monthly income is compared to the Disability Financial Assistance payment standard representing the number of individuals in the family group. If the family group's countable monthly income exceeds the Disability Financial Assistance payment standard representing the number of individuals in the family group, the Disability Financial Assistance assistance group is ineligible.

In calculating gross nonexempt income, the amount shall be rounded down to the nearest whole dollar by dropping all cents. All cents in gross weekly, biweekly, or semimonthly income shall be dropped prior to applying the conversion factors to convert the income into a standard month. All cents shall be dropped before and after multiplying by the appropriate conversion factor, and prior to the application of the earned income disregards. Hourly rates which contain cents are not rounded but are converted in the exact amount.

Gross nonexempt income which is received in a frequency other than monthly must be converted to a standard month rather than adjusting income each month. Income received on a weekly basis

STATE HEARING DECISION CONTINUATION

is multiplied by 4.3.

In order to determine program eligibility for applicant assistance groups, total all gross monthly earnings of each employed member of the family group. The first seventy-five dollars of the gross income is deducted from the gross monthly earnings of each employed family group member as a work expense disregard. The remaining income is then added to the family group's other countable income (i.e., unearned income) and compared to the appropriate Disability Financial Assistance payment standard for the family group size. Ohio Admin. Code § 5101:1-5-40 (2006)

The payment standard for a family group size of one is \$115. Ohio Admin. Code § 5101:1-5-1 (G)(5) (2007)

A request for a state hearing may be dismissed if the appellant or authorized representative withdraws the hearing request, before the state hearing decision is issued. Ohio Admin. Code § 5101:6-5-03 (E) (1) (2008)

Analysis:

In this specific case, the Appellant has been receiving Food Assistance (FA) benefits and Disability Medical Assistance (DMA). The Agency received a new hire alert for the Appellant on 10/08/08 and received the employment inquiry on 10/18/08 verifying that Appellant was hired on 06/10/08 at a temporary agency. Based on the verified earnings, the Agency determined the monthly gross earnings to be \$1,345 as follows: $\$278 + \$348 + \$348 + \$278 = \$1,252/4 = \313 average weekly pay multiplied by 4.3 weekly conversion factor = \$1,345 per month.

In order to remain eligible for DMA, the Appellant's income must be below the \$115 Disability Financial Assistance (DFA) payment standard of \$115 per month. The Agency determined the Appellant's countable income is \$547.50 as follows: $\$1,345$ total earned income minus \$250 work disregard equals \$1,095; $\$1,095$ divided by 2 = \$547.50. The \$547.50 exceeds the \$115 payment standard for one person, so there is no eligibility for DMA. Therefore, the proposed termination of DMA due to income in excess of eligibility standards is in accordance with established regulations.

Appellant is advised that if his income has changed, he should report and verify this to the Agency. Appellant indicated that he wanted to file a new application and signed a withdrawal regarding the Food Assistance appeal.

HEARING OFFICER'S RECOMMENDATIONS:

Appeal #1444765 regarding Food Assistance is dismissed as **WITHDRAWN**.

Appeal #1444766 should be **OVERRULED**. The proposed termination of Disability Medical Assistance effective 11/30/08 is correct.

FINAL ADMINISTRATIVE DECISION AND ORDER:

Finding the Hearing Officer's recommendations to be supported by the evidence, the recommendations are adopted.

The food assistance appeal is withdrawn.

STATE HEARING DECISION CONTINUATION

The Disability Medical Assistance appeal is overruled.

Hearing Authority

March 17, 2009

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 CLEVELAND 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 EXHIBITS:

- 1 – Hearing Request (1 page)
- 2 – Written Withdrawal signed 01/27/09 (1 page)

AGENCY EXHIBITS:

- A – Appeal Summary and attachments (8 pages)
- B – Employment Information screen print AEIEI (1 page)
- C – Disability Financial Assistance Budgets (3 pages)