

ADMINISTRATIVE DISQUALIFICATION HEARING DECISION

ODHS 4007 (Rev. 9/94)

County Hardin	District Hearings Section Central	Assistance Group Name	Assistance Group Number	
Place of Hearing Hardin CDHS	Initial Hearing Date 4/05/00	Rescheduled Postponed to	Rescheduled Postponed to	Rescheduled Postponed to

Appellant/Representative	Appellant Representation
	Local Agency Representation Sarah Jeffries, Investigator

Accused Individual Jeannette Cowart	Appeal Number(s) 81524	Program(s) FS
Amount of Overpayment/Overissuance \$0	Period of Overpayment/Overissuance N/A	

Date Referred by CDHS 1/04/00	Date Received by ODHS 1/06/00	Date Received by DHS 1/06/00
Date Initial Scheduling Notice Mailed 3/06/00	Date Rescheduled Notice Mailed	

Notice

This is the official report of your hearing and is to inform you of the decision. All documents introduced at the hearing or otherwise filed in the proceeding make up the hearing record. The hearing record will be available for examination at the local agency during normal office hours. If you disagree with this decision, you have the right to appeal to common pleas court pursuant to Section 5101.35 of the Ohio Revised Code. Your Appeal must be filed within thirty days of the date this decision was issued to you. If you have questions about appeal to court, contact your attorney, local legal aid society, or bar association. 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.

ALLEGATION:

The Hardin County Department of Human Services alleges that the appellant committed and intended to commit and intentional program violation in the program of food stamps by failing to report her employment at Peper Drug Store. The agency is recommending a 12-month disqualification period for a first violation.

FINDING OF FACT:

The Referral for Administrative Disqualification Hearing was received by the Bureau of State Hearings on January 6, 2000. The Central Hearing Section mailed an Advance Notice of Disqualification Hearing on March 6, 2000 both certified and regular mail, for the scheduled hearing date of April 5, 2000. The certified mail was signed on March 9, 2000 and returned on March 10, 2000. The regular mail did not return. The hearing was

AMH

	Date Issued 4/17/00	NO Compliance Required
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held on April 5, 2000.

The Agency's Testimony was as follows:

The appellant filed an ODHS 7200, Application for Cash, Medical and Food Stamp benefits on July 15, 1999. The appellant signed and dated the application acknowledging her reporting responsibilities. At that time, the appellant also completed a computer application which she signed.

On July 20, 1999, the appellant completed an intake interview for food stamps. She reported that she was employed by Cracker Barrel Restaurants. She signed the computer application acknowledging her reporting responsibilities.

On August 14, 1999, the appellant received her first pay from Peper Drug Store.

The appellant failed to appear for her reapplication appointment and her food stamps closed on September 30, 1999.

On October 9, 1999, the appellant received her last pay from Peper Drug Store.

On October 19, 1999, the appellant filed an ODHS 7200 for food stamp assistance. She completed an intake interview on October 22, 1999 in order for her food stamps to be approved. The appellant reported to the caseworker that she quit her job at Cracker Barrel in September. The agency mailed an employment verification to Cracker Barrel to corroborate that information. During the intake interview, an employment match was received for Peper Drug Store. When questioned about the employment, the appellant stated that she had worked there for a month while working at the Cracker Barrel. The appellant signed a release to obtain employment verification from the drug store.

As of November 17, 1999, the appellant was listed as a current employee on Cracker Barrel records. The agency received an employment verification from Peper Drug Store on November 19, 1999 which showed that she received her first pay on August 14, 1999 and her last pay on October 9, 1999. The drug store was unable to verify when the appellant's actual beginning and ending date was.

The Appellant's Testimony was as follows:

No testimony was provided as the appellant failed to appear for the scheduled hearing.

EXHIBITS:

- (1) ODHS 7200 Application for Cash, Medical and Food Stamp Assistance dated July 15, 1999.
- (2) Print Copy Information (PCI) signed and dated by the appellant on July 15, 1999.
- (3) PCI signed and dated by the appellant on July 20, 1999.

- (4) Employment verification from Peper Drug Store dated October 22, 1999
- (5) CRIS-E generated running record comments

CONCLUSIONS OF FACT:

- (1) The appellant completed an application for participation in the food stamp program on July 15, 1999. On the application, the appellant acknowledged her rights and reporting responsibilities. On July 20, 1999, a CRIS-E application was completed. The appellant reported employment at Cracker Barrel during the July 20, 1999 application.
- (2) The appellant was employed by Peper Drug Store and Peper Drug Store issued pay checks to the appellant from August 14, 1999, to October 9, 1999.

CONCLUSIONS OF POLICY:

- (1) Ohio Administrative Code (O.A.C.) 5101:6-20-02 (B) explains that in the food stamp program, intentional program violation shall consist of an action by an individual for the purpose of using, presenting, transferring, acquiring, receiving, or possessing food stamp benefits, which is intentionally:
 - (1) A false or misleading statement, or a misrepresentation, concealment or withholding of facts; or
 - (2) Any act that constitutes a violation of the Food Stamp Act, the food stamp program regulations or any state statute relating to use, presentation, transfer, acquisition, receipt, or possession of food stamp benefits.
- (2) O.A.C. 5101:6-20-03, explains that individuals found to have committed an intentional program violation either through an administrative disqualification hearing or by a court of appropriate jurisdiction, or who have signed either a waiver of right to an administrative disqualification hearing or a disqualification consent agreement in cases referred for prosecution, shall be ineligible to participate in the food stamp program for twelve months for the first violation, twenty four months for a second violation and permanently for a third violation.
- (3) O.A.C. 5101:6-20-16 states that it shall be the responsibility of the local agency to show, by clear and convincing evidence, that the accused individual committed intentional program violation.

In the present case, the appellant clearly reported being employed at Cracker Barrel at the time she completed her July 15, 1999, application and the July 20, 1999, intake interview. However, the printed copy of information (PCI) application dated 7/20/99, provided conflicting dates of employment at Cracker Barrel. While it is clear that the appellant signed an application prior to beginning her employment at Peper Drug Store acknowledging her rights and reporting responsibilities, and she may have failed to report the employment, there was no evidence provided to show by clear and convincing evidence that she intentionally withheld information, such as providing false information in written form when asked about employment during the period of time she was employed at Peper Drug Store. Failure to report alone does not meet the definition of an intentional program violation. Therefore, in the absence of clear and convincing evidence to show that the appellant

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withheld employment information for the purpose of acquiring food stamp benefits, the hearing officer is unable to uphold the agency's allegation.

HEARING OFFICER'S RECOMMENDATIONS:

It is recommended that the agency's determination that the appellant committed an Intentional Program Violation NOT be UPHELD.

FINAL ADMINISTRATIVE DECISION AND ORDER:

The Hearing Officer's recommendation is adopted. ALLEGATION NOT UPHELD.

ISSUED BY:

Anita Fogle
Hearing Authority

4/17/00
Date