

ADMINISTRATIVE DISQUALIFICATION HEARING DECISION

ODHS 4007 (Rev. 9/94)

County Marion	District Hearings Section Central	Assistance Group Name	Assistance Group Number	
Place of Hearing Marion CDHS	Initial Hearing Date 4/19/00	Rescheduled Postponed to	Rescheduled Postponed to	Rescheduled Postponed to

Appellant/Representative	Appellant Representation
	Local Agency Representation Gail Sobas, Investigator Cheryl Domin, Caseworker

Accused Individual Annette Hicks	Appeal Number(s) 81554	Program(s) FS
Amount of Overpayment/Overissuance \$0	Period of Overpayment/Overissuance none	

Date Referred by CDHS 12/5/99	Date Received by ODHS 1/26/00	Date Received by DHS 1/27/00
Date Initial Scheduling Notice Mailed 3/13/00	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 Marion County Department of Human Services (CDHS) alleges that the appellant committed and intended to commit an intentional program violation in the program of food stamps as a result of her failure to report employment at Rumpf Corp. at her application interview October 22, 1999. The agency is recommending a 12-month disqualification for this first violation.

FINDING OF FACT:

The Referral for Administrative Disqualification Hearing was received by the Bureau of State Hearings on January 26, 2000. The Central Hearing Section mailed an Advance Notice of Disqualification Hearing on March 13, 2000 both certified and regular mail, for the scheduled hearing date of April 19, 2000. The certified

AMH

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mail returned unclaimed and the regular mail did not return. The hearing was held on March 13, 2000.

The Agency's Testimony was as follows:

The appellant was in the agency on October 22, 1999 and completed an ODHS 7200 application for Cash, Medical and Food Stamp Assistance. The appellant also completed a family assessment form which she signed on the same date. At that time, the appellant reported that her employment had recently ended and that she was not employed. The agency alleges that the appellant was employed with Rumpf Corp. during the month of October 1999. The appellant did not report her employment on her application. On October 25, 1999, the appellant completed an interactive application and signed her reporting responsibilities. Emergency food stamps were authorized on this date in the amount of \$168.00. The appellant was in the agency on October 28, 1999 to bring in pregnancy and residency verifications. On that day, the caseworker received a new hire match stating that the client was employed by Rumpf Corp. The caseworker sent a message to the appellant and she came in on November 10, 1999 to sign releases to verify employment with Rumpf Corp. and Oakland Grill. She was employed from October 6, 1999 to October 20, 1999 at Rumpf Corp. She received two pays, one for \$68.75 on October 20, 1999 and on for \$209.94 on October 27, 1999. The appellant also received a pay from her previous employer, Oakland Grill on October 4, 1999 in the amount of \$28.32.

The Appellant's Testimony was as follows:

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

EXHIBITS:

- (1) ODHS 7200 Application for Cash, Medical and Food Stamp Assistance completed October 22, 1999
- (2) Family Assessment Form completed by the appellant on October 22, 1999
- (3) Computer application for Cash, Medical and Food Stamp Assistance completed October 25, 1999
- (4) Employment verification from Rumpf Corp.

CONCLUSIONS OF FACT:

- (1) The appellant was employed with Rumpf Corp. from October 11, 1999 until October 22, 1999.
- (2) The appellant completed an ODHS 7200 Application for Cash, Medical and Food Stamp Assistance on October 22, 1999. When filling out the application, she answered "yes" to the question of whether her household income had recently stopped and supplied that it had stopped in the mid-part of September 1999.
- (3) The appellant signed the application declaring the contents to be complete and correct and acknowledging her reporting responsibilities.
- (4) The appellant answered "no" when asked if anyone in her household had received income so far in October.

(5) The appellant completed a Family Assessment on October 22, 1999. She answered “no” when asked if she was currently employed. She provided that her last day of employment with Oakland Bar was September 17, 1999 and her last pay was received on September 20, 1999. The appellant also answered “none” when asked to list her gross pays received so far in the month of October and any that she would have received in the month of October.

(6) The appellant completed a face-to-face interactive interview on October 25, 1999. When ask the specific question regarding current employment, the appellant indicated that she was not currently employed. The appellant indicated that she had been previously employed and reported last employment as Oakland Grill, ending 10/06/99. The appellant did not report employment with Rumpf Corp.

(7) Rumpf Corp. verified employment from 10/11/99 through 10/22/99, provided income of \$68.75 on 10/20/99 and \$209.94 on 10/27/99, and gave the reason for the employment ending as the appellant quit.

(8) The appellant signed the application that was computer generated following the face to face interview on October 25, 1999, declaring the contents to be correct and complete.

CONCLUSIONS OF POLICY:

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.

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.

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 completed an ODHS 7200 Application for Cash, Medical and Food Stamp Assistance on October 22, 1999, and a face-to-face interview to complete the application process on October 25, 1999. The appellant’s employment ended with Rumpf Corp. on October 22, 1999; however, the appellant failed to provide the agency with her employment information or the amounts of her income that she received from her employment with Rumpf Corp. In reviewing the application following the face-to-face interview on October 25, 1999, the appellant omitted her employment at Rumpf Corp. when ask the specific question regarding previous employment in the last 4 ½ years. The appellant was paid two days before she completed the ODHS

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7200 on October 20, 1999 and two days after she completed the computer application on October 27, 1999. The appellant, by withholding known information, is found to have committed an intentional program violation in the program of food stamps as described in O.A.C. 5101:6-6-02. Therefore, she is subject to penalty.

HEARING OFFICER'S RECOMMENDATIONS:

It is recommended that the agency's determination that the appellant committed an Intentional Program Violation be UPHELD. It is further recommended that the appellant be disqualified from participation in the FS program for twelve (12) consecutive months pursuant to O.A.C. 5101:6-20-03.

FINAL ADMINISTRATIVE DECISION AND ORDER:

The Hearing Officer's recommendation is adopted. ALLEGATION UPHELD. COMPLIANCE REQUIRED.

(The local agency is responsible for promptly and fully implementing this administrative disqualification hearing decision. Prior to implementing the disqualification, the local agency shall provide the individual a "Notice of Disqualification for Intentional Program Violation," ODHS 4062, in accordance with O.A.C. 5101:6-20-18. After implementing the disqualification, the local agency shall promptly notify the Bureau of State Hearings of the action taken, using the ODHS 4068, the State Hearing Compliance form. A copy of the ODHS 4062 and appropriate CRIS-E screen shall be attached to the ODHS 4068.) O.A.C. 5101:6-20-03 and 5101:6-20-17.

ISSUED BY:

Anita Fogle
Hearing Authority

4/28/00
Date