

STATE HEARING DECISION

ODHS 4005 (Rev. 9/94)

County MONTGOMERY	District Hearings Section CINCINNATI	Assistance Group Name		Assistance Group Number
Place of Hearing MONTGOMERY	Initial Hearing Date 02/23/2001	Rescheduled Postponed to 03/19/2001	Rescheduled Postponed to	Rescheduled Postponed to

Appellant/Representative	Appellant Representation
	Local Agency Representation Edna Thomas, County State hearing Monitor; Robert Livensperger, Eligibility Worker

Date Notice Mailed 01/24/2001	Date Received by Local Agency	Date Received by ODHS 02/05/2001	Date Appeal Summary Received	Date Scheduling Notice Mailed 03/09/2001
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Appeal Number(s)/Program(s) 1005224/FS
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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 CINCINNATI District hearing section at 1-800-686-1571.

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, Office of Legal Services, 30 East Broad Street, 31st Floor, Columbus, Ohio 43266-0423 or FAX (614) 752-8298. 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 Office of Legal Services 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.

ISSUE (1005224):

The appellant, an Ohio Works First (OWF) and food stamp participant, was required to comply with the self-sufficiency contract. She did not report to her Work Experience Program (WEP) assignment in November and December, 2000. To initiate a first occurrence sanction, Montgomery County Department of Job and Family Services (MCDJFS) removed the appellant from the food stamp assistance group, causing the food stamp allotment to decrease from \$186 to \$130 effective 2-1-01.

The issue is whether removal of the appellant from the food stamp assistance group for a first occurrence OWF sanction, effective 2-1-01 because the appellant failed without good cause to comply with the self-sufficiency contract, is correct. The removal of the appellant from the food stamp assistance group effective 2-1-01 for a first occurrence sanction is affirmed, because the appellant

ABB

Appeal(s) OVERRULED 1005224	Date Issued 04/04/2001	Compliance
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Distribution: Original to appellant, one copy to local agency; one copy to district Hearing section; one copy to district office; two copies to State Hearings. *(Photocopy to appellant's authorized representative, if any, and to ODHS units as appropriate.)*

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failed to establish good cause for not complying with the self-sufficiency contract.

PROCEDURAL MATTERS:

The notice was mailed on 12-20-00. The request for hearing was received by Bureau of State Hearings on 2-5-01 and by Cincinnati Hearing Section on 2-7-01. No appeal summary was received by this hearing officer. The 2-23-01 hearing was rescheduled to 3-19-01 and heard on that date.

SUMMARY OF PROCEEDINGS:

Agency Testimony:

The appellant and her child received OWF cash, ADC-Related Medicaid, and food stamps. As an OWF and food stamp recipient, the appellant was required to participate in the Work Program. The appellant signed the self-sufficiency contract and plan on 9-12-00. The appellant was assigned to educational and vocational training and 6 hours a week or 26 hours a month in a WEP activity beginning 10-3-00. The appellant was given a work allowance.

The agency received the WEP attendance forms for November and December, 2000 showing the appellant failed to complete any of her assigned 26 monthly hours. The appellant had not called the agency to report her inability to participate and to establish good cause for her failure to participate.

On 12-19-00, the agency determined that this was the appellant's first occurrence without good cause to participation in the Work Program, resulting in a failure to comply with the self-sufficiency contract. Based on the first occurrence sanction, the OWF cash would be terminated for one month or until compliance is achieved, whichever is longer. The appellant would be removed from food stamp assistance for one month or until compliance is achieved, whichever is longer.

Appellant Testimony:

The appellant stated that she was unable to report to the WEP assignment because she had a child support hearing. The absent parent was ordered to pay support. He began harassing her. The appellant stated that she was afraid to go school. She withdrew from her fall classes. The appellant provided documents showing she withdrew from her classes.

He child was hospitalized from 10-27-00 to 10-30-00; therefore, she could not go to school or to her WEP assignment. She provided documents showing the dates of hospitalization for her child.

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Her child began having academic problems in school. On 1-3-01 she withdrew her child from public school and began home school for him.

The appellant received a copy of and read the information in the self-sufficiency contract and plan. She did not call the agency concerning her inability to participate until she received the notice regarding the sanction. She stated that she explained her child support situation to a lady at her WEP site.

Although the first occurrence sanction caused the appellant's OWF benefits to terminate, the appellant was not requesting the hearing on the termination of OWF. The appellant is currently receiving monthly child support payments which causes her to be ineligible for OWF cash assistance. The appellant wants the full food stamp allotment, because she had good cause for not participating in the Work Program. The appellant stated that she would not be able to participate in Work Program, because she is providing home school for her child and is also going to school.

FINDINGS OF FACT:

1. The appellant was required to participate in the Work Program. She was assigned to an educational and training because she was a full time student. She had to complete 6 hours per week or 26 hours a month WEP assignment which began 10-3-00.
2. The appellant did not complete any of her WEP hours for November or December, 2000. Although she received a copy of the good cause requirements which is included in the self-sufficiency plan, she did not report her inability to complete the WEP assignment to the agency.
3. The appellant stated her child was hospitalized from 10-27-00 through 10-30-00, but this was not within the month the failure occurred.
4. The appellant provided no evidence to support her claim of being harrassed by he child's father. There were no police reports or restraining orders to establish that there was a harrassment problem.
5. The appellant's failure to participate caused an OWF and a food stamp sanction. However, the appellant's appeal is regarding the food stamp sanction. She is receiving child support payments which cause her to be financially ineligible for OWF cash.

Policy:

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1. Ohio Administrative Code (OAC) 5101:4-3-09: (7 CFR 273.7) states that a failure by an individual who is an Adult or a minor head of household to comply with provision(s) contained in the self-sufficiency contract shall result in the imposition of a sanction for that individual. the individual would be ineligible for food stamp participation for one sanction month or until the failure or refusal ceases, whichever is longer.

2. OAC 5101:4-3-11(I) [7 CFR 273.7] states: Compliance shall be considered to be met pursuant to the following criteria. If the sanction is due to an individual not participating in a work activity, the CDHS shall require the individual to:

(1) Sign a statement agreeing to participate in the work program and to comply with the employability plan developed by the individual and the CDHS pursuant to the provisions of Rules 5101:4-3-29 and 5101:4-3-31 of the Administrative Code; and

(2) Participate in a work program activity as assigned for up to a two-week period following the date of the signing of the compliance form. The actual time of participation in the two-week period will vary dependent upon the CDHS' ability to schedule the individual and the work program activity to which the individual is assigned.

Analysis:

The self-sufficiency contact states that participants will perform all work activities listed on the self-sufficiency plan unless the agency determines that good cause exists. The appellant had knowledge of her WEP assignment and that she was required to work 6 hours a week or 26 hours a month, but failed to work any of her required WEP hours for November, and December, 2000 and failed to establish good cause for her failure.

The appellant stated that she did not participate because her child was hospitalized in October, 2000, but the failure occurred in November and December, 2000. The medical printout she provided is questionable, because information has been blacked-out and other written information could have been written by the appellant. The appellant had other problems regarding her child's education and her educational classes, but neither occurrence would have established good cause for November or December, 2000; the child was hospitalized in October, 2000 and his home schooling did not begin until 1-3-01. The appellant also provided no evidence to support her claim that the child's father was harrassing her causing interference with her ability to complete her November and December, 2000 WEP assignment.

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In compliance with Revised Code Section 5107.16, it is found that the appellant failed to participate as assigned in the Work Activities Program and failed to establish good cause for this failure. In so doing, the appellant failed to comply the requirement in the self-sufficiency contract.

By the preponderance of the evidence, it is found that the agency's first occurrence sanction which would remove the appellant from the food stamp assistance group for one month or until compliance is achieved, whichever is longer, is correct.

The food stamp sanction began 2-1-01 and can be lifted when as compliance has been achieved in accordance with OAC 5101:4-3-11(I).

HEARING OFFICER'S RECOMMENDATIONS:

The appeal 1005224 should be OVERRULED. The 2-1-01 food stamp sanction for one month or until compliance is achieved, whichever is longer, is affirmed.

FINAL ADMINISTRATIVE DECISION AND ORDER:

Finding the hearing officer's decision to be supported by the evidence, the recommendation shown above is adopted, and this appeal 1005224 is OVERRULED. No orders of compliance shall be issued against the agency based on this appeal.

APPENDIX:

EXHIBIT: A - Self-sufficiency contract

EXHIBIT: B - Self-sufficiency plan

EXHIBIT: C - WEP assignment notice

EXHIBIT: D - Running Record Comments

EXHIBIT: E - WEP attendance forms for November and December, 2000

EXHIBIT: F - Notice History Detail for the Food Stamp and OWF sanctions

EXHIBIT: G - Medical Printout

EXHIBIT: H - Undergraduate Advising Report showing a class withdrawal

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Date Issued: 04/04/2001