

STATE HEARING DECISION

ODHS 4005 (Rev. 9/94)

County CUYAHOGA	District Hearings Section CLEVELAND	Assistance Group Name		Assistance Group Number
Place of Hearing CUYAHOGA CDHS	Initial Hearing Date 04/10/2001	Rescheduled Postponed to 04/24/2001	Rescheduled Postponed to 04/24/2001	Rescheduled Postponed to

Appellant/Representative	Appellant Representation
	Local Agency Representation G. Harris-H&N #6815

Date Notice Mailed 12/30/1899	Date Received by Local Agency	Date Received by ODHS 01/31/2001	Date Appeal Summary Received 04/24/2001	Date Scheduling Notice Mailed 04/12/2001
Appeal Number(s)/Program(s) 1007875/FS, 1007876/MED				

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 1-800-686-1551.

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 SECTION

Issue #1007875:

On 08/31/00, the Cuyahoga County Department of Job and Family Services (Agency) terminated the appellant's Food Stamp (FS) assistance based on a finding the appellant had requested a transfer of his case to another county.

The issue is whether the termination was correct. The Agency's termination was incorrect because the Agency failed to support by a preponderance of the evidence that the appellant requested that his case be transferred to another county.

Issue #1007876:

On 11/30/00, the Cuyahoga County Department of Job and Family Services (Agency) terminated the

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Appeal(s) SUSTAINED 1007875, 1007876	Date Issued 04/30/2001	Compliance 1007875, 1007876
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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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appellant's Medicaid (MA-D) assistance based on a finding the appellant had requested a transfer of his case to another county.

The issue is whether the termination was correct. The Agency's termination was incorrect because the Agency failed to support by a preponderance of the evidence that the appellant requested that his case be transferred to another county.

PROCEDURAL MATTERS

Notice of appeal was original received 01/31/01. The request was marked for Mahoning County and sent to The Canton District Hearing Office. On 02/02/01, Canton District noted that the return address contained a Cleveland, Ohio address. Canton District contacted the Cleveland District Office and requested that the Cleveland Office determine if this was a Cuyahoga County case. On 02/08/01, Canton District sent the appellant a letter at the Cleveland address and requested that he clarify his address. On 02/13/01 Canton District was able to determine that the appellant's mother had moved into Mahoning County but the appellant had remained in Cleveland. A hearing was set with the Cleveland District Office. The appeal was dismissed as abandon on 02/23/01. By letter dated 03/12/01, the appellant requested Administrative appeal. Administrative Appeal instructed the Cleveland District Office to determine the timeliness of the request. The case was originally scheduled for hearing for 03/10/01 but was rescheduled after notice was received of an address change. The case was rescheduled and heard on 04/24/01. The notice was mailed to all parties on 04/12/01. All benefits were terminated on this case.

Note: The Agency offered no appeal summary. The record was left open in order to provide the appellant opportunity to document residency. On 04/27/01, the appellant provided verification and a notarized statement form his mother.

FINDINGS OF FACT

1. It is undisputed that:
 - a. The appellant was living in a house with his mother.
 - b. The appellant received Social Security Income and had his own Medicaid and Food Stamp assistance group.
 - c. Cuyahoga County received a request from the appellant's mother to transfer her case to Mahoning County back during 08/00.
 - d. The worker acknowledged that both cases were transferred to Mahoning County.
 - e. The worker acknowledged that all notices and medical cards were sent to Mahoning County.
 - f. The worker acknowledged that the appellant Food Stamps and Medicaid were closed in Cuyahoga County based on code #312 (individual is active on another case).

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2. Cuyahoga County argued that the appellant Food Stamp and Medicaid case was transferred to Mahoning County after the appellant mother requested a transfer. Through a friend that assistance him with this hearing, the appellant acknowledged that his mother had moved to Mahoning County sometime in 6/00 (See Exhibit A). However, the appellant never moved with her or requested that his case be transferred. The house the appellant and his mother were living in was a duplex. The appellant lived upstairs and his mother down stairs. By way of supplemental documents, the appellant provided utility bills and a landlord statement to indicate that he remained at the Cleveland location and has not moved (See Exhibit B). Further, the appellant provided a notarized statement from his mother indicating that she received the appellant's medical cards and notices in Mahoning County and never forwarded them (See Exhibit C). Based on the testimony and evidence presented, the Hearing Officer finds that Cuyahoga County failed to support by a preponderance of the evidence that the appellant either moved or requested that his case be transferred.

3. The Agency acknowledged that all notice of termination and transfer were sent to Mahoning County. The appellant was able to produce credible evidence that he was not located at that address or that notice was forwarded to him (See Exhibit B & C). Based on these facts, the Hearing Officer finds the appellant has established good cause for failure to appeal the termination of his assistance.

CONCLUSIONS OF POLICY

Policy

According to the Ohio Administrative Code (OAC), an individual is allowed ninety calendar days from the date of any action to request a hearing. The ninety-day period begins the day after notice is mailed (OAC 5101:6-3-02). The ninety-days do not apply unless the individual has received notice of hearing rights relative to the specific action (OAC 5101:6-3-02).

Intercounty transfer (ICT) situations occur when a public assistance case and/or an assistance group within a case, or some participant moves from one county to another within the state. Once the transfer has occurred, the delivery of benefits to this case or assistance group becomes the responsibility of the CDHS in the county of relocation. All public assistance programs are subject to the ICT procedure (OAC 5101:1-1-14(A)).

A distinction shall be made between a case transfer and an assistance group transfer. A case transfer occurs when the members of an entire household move to a new residence located in another county within the state. An assistance group transfer occurs when a participant(s) comprising a specific assistance group within a case/household, moves to a new residence located in another county within

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the state, leaving behind other active assistance group household members in the original county of residence (OAC 5101:1-1-14(B)(1)&(2)).

According to OAC 5101:6-7-01(C)(1), the Agency must show by a preponderance of the evidence that its actions were in accordance with ODHS rules (OAC 5101:6-7-01(C)(1)(c)). The Hearing Officer's findings must be based, exclusively, upon the evidence submitted at the state hearing (OAC 5101:6-7-01(C)(1)).

Analysis

It is uncontested that all notices were sent to Mahoning County. The appellant was able to establish by credible evidence, he never moved to Mahoning County, remained at his home in Cuyahoga County, and never received notice of the termination action. These facts and the evidence presented establish good cause for the delay in requesting an appeal. Based on the above facts and code sections, the Hearing Officer finds that the appeal request is timely.

The testimony and documentation at the hearing support that the appellant remained in Cleveland while his mother moved to Mahoning County. Further, the Agency transferred the household's case instead of just the mother's assistance group. Based on these facts and the above code sections, the Hearing Officer finds that the Agency failed to support by a preponderance of the evidence that they properly terminated that appellant case and transfer it to Mahoning County.

HEARING OFFICER'S RECOMMENDATIONS

Based on the record before me, I find the appeal #1007875 should be **SUSTAINED**. The Cuyahoga County Department of Job and Family Services 08/31/00 termination of Food Stamps based on a finding the appellant had requested a transfer of his case to another county was incorrect.

The Agency should be required to redetermine Food Stamp assistance back to 08/31/00 and redetermine continuing eligibility. The appellant should be awarded any lost benefits caused by the Agency's error. Continuing eligibility should be approved or denied based on all verified eligibility requirements. The appellant should be afforded all appeal rights on the Agency's determination.

Based on the record before me, I find the appeal #1007876 should be **SUSTAINED**. The Cuyahoga County Department of Job and Family Services 11/30/00 termination of Medicaid based on a finding the appellant had requested a transfer of his case to another county was incorrect.

The Agency should be required to reinstate Medicaid assistance back to 11/30/00 and redetermine continuing eligibility. Continuing eligibility should be approved or denied based on all verified

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eligibility requirements. The appellant should be afforded all appeal rights on the Agency's determination.

FINAL ADMINISTRATIVE DECISION AND ORDER

The recommendations above are adopted, and appeal #'s 1007875 & 1007876 are **SUSTAINED**.

COMPLIANCE IS REQUIRED

O.A.C. Section 5101: 6-7-03 requires prompt compliance with state hearing decisions. For decisions involving **public assistance, social services** or **child support**, compliance shall be achieved within **15** calendar days from the date the decision is issued, but in no event later than 90 calendar days from the date of the hearing request.

For decisions involving **food stamps**, any increase in benefits must be reflected in the coupon allotment within **10** calendar days of receipt of this decision, even if the local agency must provide a supplement. The local agency may take longer than ten days if it elects to make the decision effective in the assistance group's normal issuance cycle, provided that issuance will occur within 60 calendar days of the date of the hearing request. If the agency elects to follow this procedure, the benefit increase may be reflected in the normal issuance cycle or with a supplement.

Compliance shall be promptly reported to the Bureau of State Hearings, ODHS, via "State Hearing Compliance," ODHS 4068, accompanied by appropriate documentation.

EXHIBITS

Appellant:

A-Mother's Lease

B-Landlord Statement and Utility Bills

C-Notarized Statement from the mother

Date Issued: 04/30/2001

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