

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 02/21/2002	Rescheduled Postponed to 03/19/2002	Rescheduled Postponed to	Rescheduled Postponed to

Appellant/Representative	Appellant Representation
	Local Agency Representation Wannah Clay, Investigator

Date Notice Mailed 01/11/2002	Date Received by Local Agency	Date Received by ODHS 01/28/2002	Date Appeal Summary Received	Date Scheduling Notice Mailed 03/08/2002
Appeal Number(s)/Program(s) 1054517/FSOP				

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 43215-3414 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

Food Stamp Overpayment (FSOP), Appeal No. 1054517:

On 01/11/2002, the Cuyahoga County Department of Job and Family Services (CDJFS), also known as the agency, notified the appellant of a Food Stamp Overpayment in the amount of \$822.00. The reason for the agency's action is the result of the agency issuing a dollar amount of food stamps which was greater than the appellant's assistance group was entitled to receive. The issue on appeal is whether the agency correctly established a food stamp overpayment amount and whether the agency is correct to collect the overpayment. The Hearing Officer finds the agency correctly calculated a food stamp overpayment from 09/2000 through 05/2001, in the amount of \$822. The Hearing Officer finds the agency should be authorized to pursue collection of the corrected amount. Therefore, the Hearing Officer finds the agency's action is correct.

BWW

Appeal(s) OVERRULED 1054517	Date Issued 04/23/2002	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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PROCEDURAL MATTERS

On 01/26/2001, the appellant requested a state hearing and it was received by the Bureau of State Hearings on 01/28/2002. The state hearing was originally scheduled for 02/21/2002 and later it was rescheduled for 03/19/2002. The agency did not provide an Appeal Summary.

SUMMARY OF THE PROCEEDINGS

Agency Testimony:

The agency investigator, also known as the agency representative (AR), stated on 01/11/2002, the agency notified the appellant of a food stamp overpayment of \$822.00 and the agency is seeking repayment of the amount from the appellant. The AR stated the agency's Cure Review unit discovered, on 08/20/2001, the appellant had unreported income. The AR stated the investigator learned the appellant was hired by a home health care agency on 07/06/2000. The AR stated the appellant's first paycheck was 07/28/2000. The AR stated the agency gave the appellant 10 days to report the change and 15 days to submit the verification for a total of twenty-five days. The AR stated the agency determined the appellant was incorrectly issued food stamps from 09/2000 through 06/2001. The AR stated the agency was aware of the appellant working for two other nursing agencies and that she had reported income. The AR stated there are four individuals in the assistance group (AG).

The AR stated for the month of 09/2000, the appellant received the following income: reported income of \$664.00, OWF of \$461.00 and unreported income of \$601.00. The AR stated the agency provided the appellant with a 20% earned income disregard, a standard deduction of \$134.00 and \$32.00 child care disregard. Based on the disregard and deductions, the agency determined the appellant had an adjusted income of \$1428.00. The AR stated they also compared the appellant's shelter cost of \$241.00 to half of the appellant's income of \$714.00. The AR stated based on an adjusted income of \$1,428.00 for an AG of four, the AG was not entitled to any food stamps. The AR stated the agency issued the appellant \$168.00 in food stamps and therefore they are seeking the full repayment, of **\$168.00** for this month

The AR stated for the month of 10/2000, the appellant received the following income: reported income of \$664.00, OWF of \$254.00 and unreported income of \$313.00. The AR stated the agency provided the appellant with a 20% earned income disregard, a standard deduction of \$134.00 and \$32.00 child care disregard. Based on the disregard and deductions, the agency determined the appellant had an adjusted income of \$933.00. The AR stated they also compared the appellant's shelter cost of \$244.00 to half of the appellant's income of \$466.00. The AR stated based on an adjusted income of \$933.00 for an AG of four, the AG was entitled to \$154.00 food stamps. The AR stated the agency issued the appellant \$238.00 in food stamps and therefore they are seeking the repayment of the difference $\$238.00 - \$154.00 = \mathbf{\$84.00}$ for this month.

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The AR stated for the month of 11/2000, the appellant received the following income: reported income of \$664.00, OWF of \$000.00 and unreported income of \$161.00. The AR stated the agency provided the appellant with a 20% earned income disregard, a standard deduction of \$134.00 and \$32.00 child care disregard. Based on the disregard and deductions, the agency determined the appellant had an adjusted income of \$527.00. The AR stated they also compared the appellant's shelter cost of \$244.00 to half of the appellant's income of \$466.00. The AR stated based on an adjusted income of \$527.00 for an AG of four, the AG was entitled to \$275.00 food stamps. The AR stated the agency issued the appellant \$328.00 in food stamps and therefore they are seeking the repayment of the difference $\$328.00 - \$275.00 = \mathbf{\$53.00}$ for this month.

The AR stated for the month of 12/2000, the appellant received the following income: reported income of \$664.00, OWF of \$000.00 and unreported income of \$90.00. The AR stated the agency provided the appellant with a 20% earned income disregard, a standard deduction of \$134.00 and \$32.00 child care disregard. Based on the disregard and deductions, the agency determined the appellant had an adjusted income of \$456.00. The AR stated they also compared the appellant's shelter cost of \$244.00 to half of the appellant's income of \$228.00 and determined the appellant was eligible for \$16.00 excess shelter deduction or $\$456.00 - \$16.00 = \$440.00$, net food stamp income. The AR stated based on an adjusted income of \$440.00 for an AG of four, the AG was entitled to \$302.00 food stamps. The AR stated the agency issued the appellant \$328.00 in food stamps and therefore they over issued the appellant \$26.00 and the agency is now seeking the repayment of the difference $\$328.00 - \$302.00 = \mathbf{\$26.00}$ for this month.

The AR stated for the month of 01/2001, the appellant received the following income: reported income of \$1,122.00, OWF of \$000.00 and unreported income of \$90.00. The AR stated the agency provided the appellant with a 20% earned income disregard, a standard deduction of \$134.00 and \$32.00 child care disregard. Based on the disregard and deductions, the agency determined the appellant had an adjusted income of \$822.00. The AR stated they also compared the appellant's shelter cost of \$244.00 to half of the appellant's income of \$411.00 and determined the appellant was ineligible for excess shelter deduction. The AR stated based on an adjusted income of \$822.00 for an AG of four, the AG was entitled to \$187.00 food stamps. The AR stated the agency issued the appellant \$204.00 in food stamps and therefore they over issued the appellant \$17.00 and the agency is now seeking the repayment of the difference $\$204.00 - \$187.00 = \mathbf{\$17.00}$ for this month.

The AR stated for the month of 02/2001, the appellant received the following income: reported income of \$1,122.00, OWF of \$000.00 and unreported income of \$372.00. The AR stated the agency provided the appellant with a 20% earned income disregard, a standard deduction of \$134.00 and \$32.00 child care disregard. Based on the disregard and deductions, the agency determined the appellant had an adjusted

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income of \$1104.00. The AR stated they also compared the appellant's shelter cost of \$244.00 to half of the appellant's income of \$552.00 and determined the appellant was ineligible for excess shelter deduction. The AR stated based on an adjusted income of \$1104.00 for an AG of four, the AG was entitled to \$102.00 food stamps. The AR stated the agency issued the appellant \$204.00 in food stamps and therefore they over issued the appellant \$102.00 and the agency is now seeking the repayment of the difference \$204.00 - \$102.00 = **\$102.00** for this month.

The AR stated for the month of 03/2001, the appellant received the following income: reported income of \$1,122.00, OWF of \$000.00 and unreported income of \$662.00. The AR stated the agency provided the appellant with a 20% earned income disregard, a standard deduction of \$134.00 and \$32.00 child care disregard. Based on the disregard and deductions, the agency determined the appellant had an adjusted income of \$1,394.00. The AR stated they also compared the appellant's shelter cost of \$244.00 to half of the appellant's income of \$697.00 and determined the appellant was ineligible for excess shelter deduction. The AR stated based on an adjusted income of \$1394.00 for an AG of four, the AG was entitled to \$15.00 food stamps. The AR stated the agency issued the appellant \$204.00 in food stamps and therefore they over issued the appellant \$189.00 and the agency is now seeking the repayment of the difference \$204.00 - \$15.00 = **\$189.00** for this month.

The AR stated for the month of 04/2001, the appellant received the following income: reported income of \$000.00, OWF of \$000.00 and unreported income of \$753.00. The AR stated the agency did not provide the appellant with a 20% earned income disregard because there was no earned income, a standard deduction of \$134.00 and \$32.00 child care disregard. Based on the disregard and deductions, the agency determined the appellant had an adjusted income of \$587.00. The AR stated they also compared the appellant's shelter cost of \$244.00 to half of the appellant's income of \$293.00 and determined the appellant was ineligible for excess shelter deduction. The AR stated based on an adjusted income of \$587.00 for an AG of four, the AG was entitled to \$257.00.00 food stamps. The AR stated the agency issued the appellant \$434.00 in food stamps and therefore they over issued the appellant \$177.00 and the agency is now seeking the repayment of the difference \$434.00 - \$257.00 = **\$177.00** for this month.

The AR stated for the month of 05/2001, the appellant received the following income: reported income of \$000.00, OWF of \$000.00 and unreported income of \$342.00. The AR stated the agency did not provide the appellant with a 20% earned income disregard because there was no earned income, a standard deduction of \$134.00 and \$32.00 child care disregard. Based on the disregard and deductions, the agency determined the appellant had an adjusted income of \$176.00. The AR stated they also compared the appellant's shelter cost of \$244.00 to half of the appellant's income of \$88.00 and determined the appellant was eligible for excess shelter deduction of \$156.00. The AR stated the she subtracted the 156.00 from the \$176.00 The AR stated based on an adjusted income of \$20.00 for an AG of four, the AG was entitled to

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\$428.00 in food stamps. The AR stated the agency issued the appellant \$434.00 in food stamps and therefore they over issued the appellant \$6.00 and the agency is now seeking the repayment of the difference $\$434.00 - \$428.00 = \$6.00$ for this month.

The AR stated the agency over issued the appellant the following amounts: $\$168 + \$84.00 + \$53.00 + \$26.00 + \$17.00 + 102.00 + \$189.00 + \$177.00 + \$6.00 = \$822.00$. The AR stated the total food stamp overpayment is therefore \$822.00.

In response to the appellant, the AR stated she received the employment information from the employer. The AR stated the case worker indicated in the running record comments that the earned income was reported in 06/2001.

Appellant Testimony:

The appellant started by asking the agency, "where did the agency obtain the employment information." The appellant stated she always reported her income to the agency and because she worked for an agency, the assignment hours were sometimes limited.

The appellant stated she believes her case worker did not input the correct income information into the computer.

FINDINGS OF FACT

- (1) In 06/2001, the appellant made the agency aware of her earned income.
- (2) On 07/06/2001, the appellant began working and on 07/28/2001 she received her first paycheck.
- (3) On 08/20/2001, the agency's Cure Review discovered the appellant had unreported income beginning, on 07/28/2000 from a data match.
- (4) The agency obtained the appellant's unreported income from the appellant's employer, see Agency EXHIBIT # 1, dated 09/26/2001.
- (5) In the agency's calculations of an overpayment, the agency provided a standard deduction of \$134.00 in all the months the appellant had reported income, provided a child care disregard, of \$32.00 and provided an excess shelter deduction where it was appropriate, i.e. when 50% of the adjusted gross income was less than the excess shelter deduction.
- (6) The appellant had the following unreported, earned income for: 09/2000- \$601.00, 10/2000- \$313.00, 11/2000- \$161.00, 12/2000- \$90.00, 01/2001- \$90.00, 02/2001- \$372.00, 03/2001- \$662.00, 04/2001-

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\$753.00, 05/2001 -\$342.00.

(7) The AR stated the agency over issued the appellant the following amounts: \$168 + \$84.00 + \$53.00 + \$26.00 + \$17.00 + 102.00 + \$189.00 + \$177.00 + \$6.00 = \$822.00. The AR stated the total food stamp overpayment is therefore \$822.00.

(8) On 01/11/2002, the agency notified the appellant they were pursuing collection of a food stamp overpayment in the amount of \$822.00.

(9) On 01/26/2002, the appellant requested a state hearing.

CONCLUSIONS OF POLICY

Policy

Ohio Administrative Code (OAC) 5101: 4-4-19 (A)(2) states that all wages and salaries of an employee and all unearned income are considered countable income in the food stamp program O.A.C. 5101:4-4-31 (R) states that an assistance group (AG) member shall meet the gross and net income standards as described in this rule unless at least one member is elderly or disabled. An AG, which contain an elderly or disabled member, but do not qualify for categorical eligibility shall have meet the net income eligibility standard.

Ohio Administrative Code (OAC) 5101:4-4-31(T) outlines the method for calculating net monthly income in the food stamp program. According to this rule, after the standard deduction of \$134.00, excess medical deductions, dependent care deductions, utility and shelter deductions are applied to the total gross income and therefore the remaining income is net monthly income.

Ohio Administrative Code (O.A.C) 5101: 4-8-15 (A) from the Food Stamp Certification Handbook indicates that each agency shall establish a claim against any assistance group (AG) that has received more food stamp benefits than it is entitled to receive. This rule describes the three types of claims and procedures the county agency is to follow when handling these claims.

O.A.C. 5101:4-8-15 (B)(1) it indicates under inadvertent household error, that a claim shall be handled as an inadvertent error if the overissuance was caused by a misunderstanding or unintended error on the part of the AG.

O.A.C. 5101:4-8-17(A)(B) states the county agency shall calculate the overissuance back thirty-six months for inadvertent household error claims.

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O.A.C 5101:4-8-17 (B) indicates the amount of an inadvertent household error claim shall be calculated based on the amount of overissuance which occurred during the thirty-six months (three years) preceding the date the overissuance was discovered.

O.A.C. 5101:4-8-17 (B)(3) states that if the AG received a larger amount allotment (of food stamps) than it was entitled to receive, the county agency shall establish a claim against the AG equal to the difference between the allotment the AG received and the allotment the AG should have received. In calculating claims involving unreported earned income, the twenty percent earned income deduction shall not be applied to that portion of earned income which the AG failed to report in a timely manner.

O.A.C. 5101:4-8-17 (C) explains that county agencies shall initiate collection action on all inadvertent household and administrative error claims unless the claim is collected through offset.

Analysis

The facts of this case indicate, the appellant had the following unreported, earned income for: 09/2000- \$601.00, 10/2000- \$313.00, 11/2000- \$161.00, 12/2000- \$90.00, 01/2001- \$90.00, 02/2001- \$372.00, 03/2001- \$662.00, 04/2001- \$753.00, 05/2001 - \$342.00. Also, in the agency's calculations of an overpayment, the agency provided a standard deduction, of \$134.00, in all the months the appellant had reported income, provided a child care disregard, of \$32.00 and provided an excess shelter deduction where it was appropriate, i.e. when 50% of the adjusted gross income was less than the excess shelter deduction. Last, the AR stated the agency over issued the appellant the following: \$168 + \$84.00 + \$53.00 + \$26.00 + \$17.00 + 102.00 + \$189.00 + \$177.00 + \$6.00 = \$822.00. The AR stated the total food stamp overpayment is therefore \$822.00.

The Hearing Officer finds from the O.A.C. 5101:4-8-17 (B)(3) that it states if an AG received a larger amount allotment (of food stamps) than it was entitled to receive, the county agency shall establish a claim against the AG equal to the difference between the allotment the AG received and the allotment the AG should have received. In calculating claims involving unreported earned income, the twenty percent earned income deduction shall not be applied to that portion of earned income which the AG failed to report in a timely manner. Also, the Hearing Officer finds from reviewing the O.A.C. 5101:4-8-17 (C) that it explains that the county agencies shall initiate collection action on all inadvertent household and administrative error claims unless the claim is collected through offset.

The Hearing Officer finds from carefully reviewing the facts of the case that the agency correctly calculated a food stamp overpayment for the above months and they were correct to initiate collection of the food stamps overpayment. Therefore, the Hearing Officer finds the agency's actions were correct.

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HEARING OFFICER'S RECOMMENDATIONS

Based on the record before me, I find the appeal for- a FSOP- should be overruled. (1054517)

FINAL ADMINISTRATIVE DECISION AND ORDER

Finding the hearing officer's decision to be supported by the evidence, the recommendations above are adopted.

Food stamp overpayment appeal overruled.

APPENDIX

- (1) Payroll from employer, 2 pages
- (2) Cure Review form, 2 pages
- (3) Food stamp budget, 7 pages
- (4) Overissuance computation, 22 pages
- (5) Abacus data entry form

Date Issued: 04/23/2002