

STATE HEARING DECISION

ODHS 4005 (Rev. 9/94)

County SUMMIT	District Hearings Section CLEVELAND	Assistance Group Name		Assistance Group Number
Place of Hearing SUMMIT CDJFS	Initial Hearing Date 01/27/2003	Rescheduled Postponed to	Rescheduled Postponed to	Rescheduled Postponed to

Appellant/Representative	Appellant Representation
	Local Agency Representation M. Underwood, CHO

Date Notice Mailed 12/30/2002	Date Received by Local Agency	Date Received by ODHS 01/09/2003	Date Appeal Summary Received 01/27/2003	Date Scheduling Notice Mailed 01/17/2003
Appeal Number(s)/Program(s) 1102941/FS, 1102942/OWF				

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) 728-9574. 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

The county agency has proposed to terminate the Ohio Works First (OWF) cash benefits and Food Stamp (FS) in order to impose a first occurrence ineligibility sanction of one-month or until compliance, whichever is longer, because agency determined appellant failed without good cause to comply with the terms of the Self-Sufficiency Contract (SSC). The agency has offered evidence to show that after consideration of the facts of the case it has reasonably concluded that appellant's absence from the assigned activity was without good cause as provided for in the agency's written good cause policy. As applicable policy provides for application of a sanction when the failure to comply is without good cause, the agency's proposal to sanction the OWF benefits is affirmed and that appeal is **OVERRULED**.

FS policy limits application of the sanction to the individual who caused the sanction, which means the remaining assistance group members may continue to receive FS if all other eligibility factors are met. The agency has offered neither testimony nor evidence to show why appellant's children may not continue to

SEK

Appeal(s) SUSTAINED 1102941 OVERRULED 1102942	Date Issued 04/09/2003	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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receive FS. The FS appeal is therefore SUSTAINED and the issue of the remaining AG members' eligibility for continued FS is remanded to agency for processing and issuance of benefits, as appropriate.

PROCEDURAL MATTERS

The county agency issued appellant notices dated December 30, 2002 proposing to terminate OWF and FS effective January 31, 2003. The appellant's state hearing request was received by phone on January 9, 2003 and forwarded to the state for processing. The state hearing was held as rescheduled on January 27, 2003 from 10-day advance notice of January 17, 2003. The appellant represented herself; the county agency was represented by county hearings official. An appeal summary was received from the agency on January 27, 2003. OWF and FS have continued at the pre-notice levels as the appeals were received within the 15-day prior notice period.

FINDINGS OF FACT

- The assistance group (AG) consists of appellant, age 20, and her two children, ages two and five months. The AG is in receipt of OWF and FS benefits.
- Appellant failed to attend an informational session in October 2002 for which she was granted good cause as she made up the session on November 20, 2002.
- At that time, appellant and agency agreed that appellant would begin attending the Catholic Charities work experience program (WEP) site as of December 9, 2002. The assignment was for 30 hours per week.
- Appellant did not report for the assignment and contacted her case manager on December 12, 2002. Appellant advised she had started a job on that day but was in unpaid training. Appellant was advised that she must be attending an activity for at least 30 hours per week and to contact the WEP site to set up a schedule to ensure the 30-hour requirement was met. Otherwise, appellant could provide verification of her wages and work hours.
- Appellant subsequently offered a letter dated December 23, 2002 from the employer which stated appellant's training started on December 16, 2002.
- Agency determined the appellant did not have good cause for failing to attend the WEP assignment pursuant to the agency's good cause policy, a copy of which appellant had signed on November 20, 2002.
- The relevant portions of the policy are as follows, as offered into evidence by agency (Exhibit C):
- "Non-participation is defined as failure or refusal to attend, complete or perform duties without good cause. Your case manager can grant good cause based on one of the following reasons. It is important to remember that proof may be required before good cause can be approved. Good Cause includes but is not limited to:"

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- Agency error;
- Illness of the participant;
- Previously scheduled appointments for medical dental or vision care, subpoenaed court appearance, job interview, testing for employment, school conference must be prior approved and will require verification upon return.
- Death in the immediate family -
- Failure of your case manager to assist you in obtaining supportive services (ex: child care) determined to be necessary.
- Other absences excused at the judgment of your Case Manager depending upon your previous participation, circumstances regarding absence or you become exempt. **(Proof required)**.
- Appellant did not explain how the training that began December 16, 2002 affected her ability to attend the WEP assignment on December 9, 2002.

CONCLUSIONS OF POLICY

Policy

Ohio Revised Code (ORC) section 5107.16 (A) states that if a member of an AG fails or refuses, without good cause, to comply in full with a provision of a SSC the agency, for a first failure or refusal, shall sanction the AG by denying or terminating the AG's eligibility to participate in OWF for one payment month or until the failure or refusal ceases, whichever is longer. For FS, Ohio Administrative Code (OAC) section 5101:4-3-09 instructs that failure to comply with provisions contained in the SSC shall result in the imposition of a sanction for that particular individual for the same periods of time as set forth in ORC section 5107.16.

ORC section 5107.16 (B) provides for each local agency to establish standards for the determination of good cause for failure or refusal to comply in full with a provision of the SSC. At a minimum, per section (B)(1) of the rule, good cause shall include failure of the agency to place an individual in an activity and failure of the agency to provide supportive services determined to be necessary, such as child care.

ORC section 5107.16(C) next states that when a state hearing is held regarding a sanction, the hearing officer shall base the decision on the local agency's standards of good cause, if the local agency provides the hearing officer with a copy of the good cause standards at the hearing.

OAC rule 5101:6-7-01(C) instructs that within the state hearing process it shall be the responsibility of the agency to show, by a preponderance of the evidence, that its action or inaction was in accordance with ODHS (now ODJFS) regulations.

Analysis

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The evidence shows the appellant was placed in an activity to which she agreed. There was no assertion that child care or any other supportive service was an issue related to appellant's failure to attend the WEP activity.

The agency provided its good cause standards which require proof for absences related to when the participant claims to have been engaged in other activity. Appellant asserts that training for a new job precluded her attendance at the WEP assignment. However, the proof offered by appellant indicates the training did not start until December 16, 2002, over a week after the beginning day of the WEP assignment of December 9, 2002. Other than the training, appellant has offered no explanation for her absence. Under these circumstances, the agency's determination that a failure occurred, without good cause, to comply with the SSC with proposal to impose a first occurrence ineligibility sanction against the OWF case is affirmed.

FS policy limits the ineligibility sanction to the individual who caused the sanction. There are two additional members in appellant's AG who have potential eligibility for FS. The agency has offered no explanation for why it proposed to terminate the FS, instead of reducing the allotment to exclude the appellant. The action to sanction the entire FS AG is not affirmed.

HEARING OFFICER'S RECOMMENDATIONS

Appeal 1102942 OWF

The appeal should be **OVERRULED** and agency authorized to terminate the OWF benefit in order to impose a first occurrence ineligibility sanction of one month, or until compliance, whichever is longer.

Appeal 1102941 FS

The appeal should be **SUSTAINED**; although a sanction is appropriate in the FS case, the agency is authorized to sanction only the appellant and to continue FS benefits for appellant's children in the appropriate amounts.

Appellant retains appeal rights regarding the amount of FS the AG is issued.

FINAL ADMINISTRATIVE DECISION AND ORDER

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

Appeal #**1102942** is **OVERRULED**.

Appeal #**1102941** is **SUSTAINED**. **COMPLIANCE IS REQUIRED**

O.A.C. Section 5101: 6-7-03 requires prompt compliance with state hearing decisions. For decisions involving food stamps, any increase in benefits must be reflected in the coupon allotment within ten calendar days of receipt of this decision, even if the local agency must provide a supplement. The local agency may

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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.

APPENDIX

EXHIBITS

AGENCY:

- A Individual Demographics screen; OWF Issuance History; two pages
- B CLRC Running Record Comments from 11-8-02 to 1-21-03; employment info screen as of 1-6-03; seven pages
- C SSC of 11-20-02 with county good cause policy; assignment records; bus pass; 11 pages
- D work site notes/record of contacts from 11-21-202 to 1-2-3; pre-sanction notice of 12-9-02; eight pages
- E Notice History Detail screen for 12-16-02 OWF/FS sanction letters; eight pages

APPELLANT:

- F letter from employer of 12-23-02; pay stub dated 1-6-03 for period 12-16-02 to 12-27-02; two pages

Date Issued: 04/09/2003