

STATE HEARING DECISION

ODHS 4005 (Rev. 9/94)

County HAMILTON	District Hearings Section CINCINNATI	Assistance Group Name		Assistance Group Number
Place of Hearing HAMILTON CDJFS	Initial Hearing Date 02/14/2003	Rescheduled Postponed to 04/04/2003	Rescheduled Postponed to 03/19/2003	Rescheduled Postponed to 03/06/2003

Appellant/Representative	Appellant Representation
	Local Agency Representation Florena Houston - Eligibility Technician

Date Notice Mailed 01/21/2003	Date Received by Local Agency	Date Received by ODHS 01/27/2003	Date Appeal Summary Received 04/04/2003	Date Scheduling Notice Mailed 03/20/2003
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Appeal Number(s)/Program(s) 1106091/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 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: On 1-17-03, Hamilton County Department of Job and Family Services (HCDJFS) denied the 11-7-02 Food Stamp (FS) reapplication, due to failure to cooperate in establishing eligibility. [Appeal #1106091]

The issue of this appeal is whether the agency's action was correct. The hearing decision finds that the denial of FS was related to a request for verification of educational grants and loans. Evidence establishes that the appellant did not fail to cooperate in providing the requested verification. Rather, he was unable to obtain the verification, as was the agency who sought documentation on his behalf.

For the above reasons, the agency's allegation is unsubstantiated. Therefore, the denial of FS cannot be affirmed.

PROCEDURAL MATTERS

SMW

Appeal(s) SUSTAINED 1106091	Date Issued 04/09/2003	Compliance 1106091
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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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By notice issued on 1-21-03 regarding the above, a hearing request was received on 1-27-03 by the Bureau of State Hearings.

A hearing was scheduled for 2-14-03, but rescheduled twice at the request of the appellant's legal representative.

A hearing was convened on 4-4-03, at which time all parties were sworn in by the hearing officer.

FINDINGS OF FACT

1. Per a FS reapplication review on 11-7-02, the appellant reported that he was to began taking college courses through University of Phoenix Online.

A verification request checklist was issued along with forms to be completed to verify whether the appellant was receiving educational grants and loans. The checklist indicated 11-17-02 as the due date for the verification.

2. According to unrefuted testimony, the appellant mailed the school form to the university on 11-7-02, and made several calls to the school requesting the verification.

3. A verification follow-up letter was mailed to the appellant on 11-25-03 as a reminder of the needed documentation.c

4. On 11-26-02, a blank school form was received in the agency. Upon being notified, the appellant requested two more school forms, which were mailed by the agency on 11-26-02.

5. Per phone call on 1-7-03, the appellant reported that the requested school verification had been faxed to the agency on 12-23-02.

6. On 1-9-02, the caseworker contacted the University of Phoenix and left a message requesting grant and loan information. The caseworker also faxed a school form to the university.

7. The caseworker's phone call was not returned, and the requested verification was not provided.

8. On 1-17-03, the FS application was denied due to the appellant's failure to cooperate in establishing eligibility.

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9. A second FS application was filed on 3-24-03. Per assistance from his legal representative, school verification was obtained from the University of Phoenix confirming that the appellant does not receive educational grants or loans.
10. On 3-31-03, the agency approved FS, effective 3-24-03.
11. Evidence establishes that the appellant, the agency and the appellant's attorney attempted to obtain verification from University of Phoenix during the application period. It wasn't until 3-12-03, however, that the university provided the requested verification, which confirmed the appellant's report that he was not receiving educational grants and loans.
12. There is no evidence that the appellant failed to cooperate in providing the requested verification. Rather, through no fault of his own, a delay occurred in the agency's receipt of the required school information.
13. For the above reasons, the agency's allegation of noncooperation is unsubstantiated. Therefore, the 1-17-03 denial of FS cannot be affirmed.

CONCLUSIONS OF POLICY

1. As set forth in Ohio Administrative Code (OAC) **5101:4-2-09 Food stamps: Verification procedure.**
- (A) General standards for verification
"Verification" is the use of third-party information or documentation to establish the accuracy of statements on the ODJFS 7200 or CAF. The following paragraphs set forth the general requirements for verification of financial and nonfinancial eligibility factors.
- (11) Student income - student income shall be verified in accordance with rule 5101:4-4-13 of the Administrative Code.
- (D) Mandatory verification prior to certification.
Mandatory verification (all as described above) shall take place prior to certification under normal processing standards at initial application.
- (I) Documenting the verification
AG files must be documented to support eligibility, ineligibility, and benefit level determinations. The documentation shall be in sufficient detail to permit a reviewer to determine the reasonableness and

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accuracy of the determination.

(J) Sources of verification - documentary evidence

COUNTY AGENCY shall use documentary evidence as the primary source of verification.

Documentary evidence consists of a written confirmation of an AG's circumstances...Although documentary evidence shall be the primary source of verification, acceptable verification shall not be limited to any single type of document and may be obtained through the AG or other source.

Whenever documentary evidence cannot be obtained or is insufficient to make a firm determination of eligibility or benefit level, the COUNTY AGENCY may require collateral contacts and/or home visits. In all cases, the method of verification shall be recorded in the AG file...

(N) Responsibility for providing verification

The AG has primary responsibility for providing documentary evidence to support its statements on the application and resolve any questionable information. The county agency shall assist the AG in obtaining this verification provided the AG is cooperating with the county agency, AND THE AG HAS NOT REFUSED TO COOPERATE AS SPECIFIED IN RULE [5101:4-2-07](#) OF THE ADMINISTRATIVE CODE... The COUNTY AGENCY shall accept any reasonable documentary evidence provided by the AG and shall primarily be concerned with how adequately the verification proves the statements on the APPLICATION. If it would be difficult or impossible for the AG to obtain documentary evidence in a timely manner, or the COUNTY AGENCY can do so more expeditiously than the AG, the COUNTY AGENCY shall offer assistance to the AG in obtaining the documentary evidence...

(P) Verification at reapplication

In the reapplication of an AG, the eligibility worker shall verify income, medical expenses, shelter or utility expenses, dependent care expenses, and legal obligation and actual child support payments.

2. Pursuant to OAC Rule 5101:6-7-01 (C)(1), the hearing officer's findings of fact shall be based exclusively on the evidence introduced at the hearing, or after the hearing and subject to examination and rebuttal by both parties as described in rule 5101:6-6-02 of the Administrative Code.

(c) It shall be the responsibility of the agency to show, by a preponderance of evidence, that its action or inaction was in accordance with the ODHS rules.

Analysis

Testimony and evidence submitted at the hearing reveal that on 1-17-03, the agency denied the 11-7-02 FS

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reapplication due to the appellant's failure to cooperate in providing verification regarding educational grants and loans.

As indicated in the Findings of Fact, there is no evidence to substantiate the agency's allegation of noncooperation. Rather, unrefuted evidence indicates that on more than one occasion the appellant attempted to obtain verification from the University of Phoenix, and repeatedly contacted the school to follow-up, to no avail. Further, the agency's effort to obtain the verification on his behalf also netted no result.

Testimony indicated that until 3-12-03, the appellant's attorney was also unsuccessful in obtaining the required verification. The attorney asserted that the agency made only one attempt to obtain the verification from the university, which does not fulfill their obligation to assist the appellant in accordance with OAC Rule 5101:4-2-09 N.

Counsel further argued that OAC Rule 5101:4-2-09 J allows the agency to use a secondary source of verification when the primary source cannot be obtained. The attorney contended that the agency failed to adhere to this regulation, in that FS were denied without requesting nor accepting a third-party source of verification.

Based upon the foregoing, and in accordance with the regulations cited herein, it is concluded by the hearing officer that there is no evidence to support the agency's allegation of noncooperation. Therefore, the 1-17-03 denial of FS cannot be affirmed.

HEARING OFFICER'S RECOMMENDATIONS

Appeal #1106091 should be **SUSTAINED**. The agency should issue FS effective 11-7-02, provided all other eligibility factors were met.

FINAL ADMINISTRATIVE DECISION AND ORDER

Finding the hearing officer's decision to be supported by the evidence, the recommendations shown above are adopted. Appeal #1106091 is **SUSTAINED**. The agency is required to comply with the terms set forth in the hearing officer's recommendation above.

COMPLIANCE REQUIRED

Ohio Administrative Code Rule 5101:6-7-03 requires compliance with this decision within 10 calendar days of the county agency's receipt of this decision. The county agency may take longer than 10 days if it elects to

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make the decision effective in the household's normal issuance cycle, provided that compliance will occur within 60 calendar days of the date of the hearing request.

Exhibits

Agency's

Exhibit A - Appeal Summary

Exhibit B - Educational Information Sharing Form, dated 11-7-02

Exhibit C - Verification Checklist, dated 11-7-02

Exhibit D - Notice History Detail, regarding verification follow-up; mailing date 11-25-02

Exhibit E - Notice History Detail, regarding the FS denial; mailing date 1-21-03

Exhibit F - Running Record Comments

Exhibit G - Notice History Detail, regarding FS approval; mailing date 4-1-03

Appellant's

Exhibit 1 - Hearing Brief

Exhibit 2 - Educational Information Sharing Form, completed by university representative on 3-12-03

Exhibit 3 - Letter, from university to attorney

Date Issued: 04/09/2003