

**IN THE OHIO DEPARTMENT OF JOB AND FAMILY SERVICES  
BUREAU OF STATE HEARINGS  
ADMINISTRATIVE APPEAL DIVISION**

**IN RE APPEAL OF:**

DOCKET NO.	2005-AA-0252
APPEAL No(s).	1204943 / OWF 1204945 / FS
AG No.	
HEARING REQUEST DATE:	12/06/2004
HEARING DECISION DATE:	03/03/2005 / <b>PJS</b>
APPEAL REQUEST DATE:	03/11/2005
<b>Hamilton CDJFS</b>	

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**Administrative Appeal Decision**

This is an appeal of a December, 2004, county decision to impose a first occurrence sanction on the Appellant's food stamp and Ohio Works First (OWF) benefits due to her failure to perform work related activities from October 1 through October 13, 2004, that she agreed to in a self sufficiency contract (SSC) she signed in July, 2004. The hearing officer overruled the appeal, finding that the Appellant failed to show good cause for the failure.

In her request for administrative appeal the Appellant asserts a Statement of Error that the decision is contrary to the weight of the evidence presented at the hearing to the effect that the work failure was previously adjudicated in her favor in appeal no. 1195898.

This appeal has a complicated procedural history. The hearing record indicates that following execution of the July, 2004, SSC there appears to have been substantial discussion, perhaps even confusion, between the Appellant and the county regarding her performance of work duties under the SSC. As a result, in early October, 2004, the county verbally told the Appellant that it was going to propose a sanction related to a work failure on September 4, 2004. This led the Appellant to request the first hearing, in appeal no. 1195808, on October 12, 2004, and the appeal was scheduled for hearing on October 27, 2004.

In the meantime, the Appellant signed a new SSC on October 14, 2004, presumably to clarify the confusion regarding the previous SSC. The Appellant also appeared at the hearing on October 27, but the county failed to appear. The next day, however, the county issued a notice of adverse action proposing the sanction that was the subject of the hearing. A few days later the county received an attendance report showing that the Appellant failed to attend the work assignment under the previous SSC, on October 1 through 13, 2004. A week later, on November 10, 2004, the hearing officer issued a ruling in appeal no. 1195808 that due to the county's failure to offer any evidence in support of the initially proposed sanction,

"The appeal should be sustained. The agency is not authorized to take the action." As a result, the county immediately rescinded its October 28 notice of adverse action.

The present action was initiated by the county a month later when it issued a December 6, 2004, notice proposing a sanction for the October 1 through 13 work failure. At that hearing the Appellant argued that the "binding effect" of the previous hearing decision, in accordance with OAC 5101:6-7-01(H), prevented the county from subsequently proposing a sanction for work scheduled through October, 2004. This position is supported by OAC 5101:1-3-15(B)(3) which provides that "Failure to comply with provision(s) contained in the self-sufficiency contract,... shall result in the imposition of a sanction as set forth in section 5107.16 of the Revised Code...Subsequent failures to comply with provision(s) in the self-sufficiency contract that occur up until the imposition of the sanction shall be considered the same occurrence." Although agreeing that because of the previous hearing decision "the slate was wiped clean", the hearing officer inexplicably held that the "occurrence" stopped in September, 2004. We agree with the Appellant that the rule requires it to continue through October, 2004, and for that reason approve her Statement of Error in this regard.

#### DECISION

Accordingly, we must ORDER that the hearing decision be REVERSED and COMPLIANCE issue to the county to rescind the proposed sanction.



Robert J. Frankart  
Administrative Appeal Officer

CONCUR:



Margaret Adams  
Administrative Appeal Officer



Chris Barley, Attorney-at-Law  
Chief Administrative Hearing Officer

DATE OF ISSUANCE April 6, 2005

This Administrative Appeal Decision is the final administrative decision on your case from the Ohio Department of Job and Family Services. If you disagree with this decision, you may have the right to appeal to common pleas court pursuant to Section 5101.35 of the Ohio Revised Code. Your appeal must be filed within thirty days of the date this decision was issued to you. If you have questions about appealing to a court, contact your attorney, local legal aid society, or bar association. If you want information about free legal services, you can call the Ohio State Legal Services Association, toll free, at 1-800-589-5888.

cc: Director, Hamilton County Department of Job and Family Services  
Hearings Supervisor, Bureau of State Hearings, PJS  
OWF: Mark McConnell, Shawn Lotts  
FS: Donna Tonkin  
Appellant, Appellant's Representative