

**OHIO DEPARTMENT OF JOB AND FAMILY SERVICES
BUREAU OF STATE HEARINGS**

In the matter of:

<u>Appeal:</u>	<u>Program:</u>	<u>Disposition:</u>
1271677	MED	SUSTAINED
Compliance Required		
Decision Date:	04/14/2006	
Request Date:	02/10/2006	
Hearing Officer:	GLADYS SMITH	

State Hearing Decision

ISSUE SECTION

On 01/30/06, Montgomery County Department of Job and Family Services (hereinafter referred to as the Agency) mailed Appellant notice proposing termination of Healthy Start Medicaid assistance effective 02/28/06. The termination action was based on Appellant's failure to cooperate in providing requested income verification. Appellant disagrees with the Agency's proposed Medicaid termination action. Appellant argues she did not receive a verification request checklist list from the Agency and was not aware they needed proof of her husband's income as well as hers. The issue is, whether the Agency's proposed termination of Healthy Start Medicaid assistance effective 02/28/06, due to Appellant's failure to cooperate in providing requested income verification is correct?

Appellant did not receive the Agency's 01/20/06, dated verification checklist requesting proof of her income. The Agency's action based on a determination that she failed to cooperate is not warranted. Thus, Agency's proposed termination of Healthy Start Medicaid assistance effective 02/28/06, due to Appellant's failure to cooperate in providing requested income verification is not correct. APPEAL 1271677 is SUSTAINED.

PROCEDURAL MATTERS

1. The hearing request was received by the Bureau of State Hearings on 02/10/06, appeal number 1271677 (MED) assigned.
2. The hearing was scheduled for 02/28/06, with request for postponement. The hearing was rescheduled for and held on 03/21/06, at Montgomery County Department of Job and Family Services as a telephone hearing attended by Appellant and Agency representative, Renita Tuck-Walker (Eligibility Specialist).
3. The participants were sworn in by the Hearing Officer as required.
4. The Agency provided case file record documents for review and inclusion with the hearing record as Agency Exhibits.

FINDINGS OF FACT

STATE HEARING DECISION CONTINUATION

Undisputed Facts

1. The household is composed of four persons, Appellant, spouse and their two children.
2. Appellant's children are eligible recipients of the Healthy Start Medicaid program.
3. Agency received Appellant's reapplication on 01/09/06, for Healthy Start Medicaid assistance.
4. Appellant is employed, her husband is self-employed and also has private employment.
5. Agency mailed an Application/Reapplication Verification Request Checklist to the Appellant dated 01/20/06, requesting she provide income verification by 02/24/06.
6. Agency did not receive verification of Appellant's husbands self-employment and employment earned income as requested by 02/24/06.
7. Agency on 01/27/06, proposed termination of Healthy Start Medicaid assistance for Appellant's household, based on the countable gross income exceeding the 200% Federal Poverty Level Standard effective 02/28/06, followed by mailing of notice on 01/30/06.
8. Appellant disagrees with the Agency's Healthy Start Medicaid termination action effective 02/28/06, and requested a state hearing on 02/10/06.
9. The new assigned caseworker proposed termination of Appellant's Healthy Start Medicaid effective 02/28/06, due to her failure to cooperate in providing requested income verification.
10. Appellant did not receive the Agency's 01/20/06, dated Application/Reapplication Verification Request Checklist verification request checklist requesting proof of income, but did receive a telephone call from the Agency on 02/24/06, requesting this information.
11. Appellant provided proof of her income, was not aware the Agency needed proof of her husbands income as well.
12. Agency's terminaton action on 01/27/06, for the 02/24/06 effective termination date was proposed prior to the 02/24/06, due date for the requested verification.

Disputed Facts

{None presented}

CONCLUSIONS OF POLICY

Policy

Ohio Administrative Code (OAC) § 5101:1-38-02 Medicaid verification and reporting requirements

(A) The purpose of verification is to establish that the factors of eligibility applicable to a specific category of medicaid are met and the assistance group is eligible to receive benefits. Verification is not an eligibility requirement in its own right, but a method for assuring that an eligibility requirement is met.5101:1-4201 Disability Medical Assistance (DMA) program

STATE HEARING DECISION CONTINUATION

(B) Verification

(6) It is the AG's responsibility to provide the information necessary to establish eligibility and to cooperate in the verification process, including providing all required verifications.

(a) An application for assistance must be denied if an AG refuses to cooperate in establishing eligibility. When the AG or authorized representative is aware of what verifications are required but refuses to provide either consent for the administrative agency to obtain the verifications or to provide the necessary verifications, the administrative agency must deny or terminate assistance because eligibility cannot be established.

(8) The administrative agency must explain what verifications and information are necessary to establish eligibility for medicaid.

(a) The administrative agency is responsible for assisting in securing all of the required verifications necessary to establish eligibility when the AG requests such assistance because of an inability to provide them without the administrative agency's help.

Ohio Administrative Code (OAC) § 5101:6-7-01(C) provides that 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. 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 ODJFS rules.

Analysis

According to Ohio Admin. Code § 5101:1-38-02 it is the assistance group's responsibility to provide all required verifications and if the assistance group fails to provide the requested verification, the Agency must terminate assistance because eligibility cannot be established. In the present case Appellant filed a reapplication with the Agency on 01/19/06, for determination of continuing Healthy Start Medicaid eligibility. Appellant and her spouse are both employed. Agency on 01/20/06, mailed Appellant an Application/Reapplication Verification Request Checklist for income verification due by 02/24/06. Agency on 01/27/06, proposed termination of the Healthy Start Medicaid benefits due to Appellant's failure to provided the requested income verification. Given Appellant did not receive the Agency's 01/20/06, dated verification checklist requesting proof of her income, the Hearing Officer does not find that she failed to cooperate. In addition given that the verification request checklist due date is 02/24/06, and the proposed termination was mailed on 01/30/06, the Agency has failed to show by a preponderance of the evidence that its action was in accordance with ODJFS rules. Therefore, the Hearing Officer further finds the Agency's proposed termination of Healthy Start Medicaid assistance effective 02/28/06, due to Appellant's failure to cooperate in providing requested income verification is not correct.

HEARING OFFICER'S RECOMMENDATION

Based on the record and Agency policy before me, I recommend that appeal 1271677 be SUSTAINED. It is further recommended the Agency shall reopen Appellant's 01/19/06, filed Healthy Start Medicaid application, obtain proof of the household's monthly gross income and upon receipt of this verification render a new eligibility determination. Appellant shall be mailed notice for the Agency's eligibility determination and shall retain all appeal rights.

FINAL ADMINISTRATIVE DECISION AND ORDER

STATE HEARING DECISION CONTINUATION

Since I find that the Hearing Officer's recommendation is supported by policy and the evidence, I hereby adopt the recommendation. Thus, appeal 1271677 is hereby SUSTAINED.

Compliance Required.

O.A.C. 5101:6-7-03 ((B)(1)(a) requires compliance with decisions involving public assistance, social services or child support services within fifteen calendar days from the date the decision is issued, but in no event later than ninety days from the date of the hearing request.


A. Ruben Lopez, Hearing Authority

April 14, 2006

Notice to Appellant

This is the state hearing decision in your case. All papers and materials introduced at the hearing or otherwise filed make up the hearing record. The hearing record will be maintained by the Ohio Department of Job and Family Services.

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, Bureau of State Hearings, P.O. Box 182825, Columbus, Ohio 43218-2825 or FAX (614) 728-9574. Your request should state why you think the hearing decision is wrong. You can complete the appeal request form included with this decision. Your written request or appeal form must be received by the Bureau of State Hearings 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 or your representative may request a free copy of the hearing record and recording of the hearing by calling the Bureau of State Hearings at 1-866-635-3748 (select option 1 from main menu).

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.

Aviso a la Apelante

Esta es la decisión estatal administrativa de su caso. Todos los documentos y materiales presentados como prueba en la vista o de otra manera radicados componen el récord administrativo. El récord administrativo será mantenido por el Ohio Department of Job and Family Services.

Si usted cree que esta decisión estatal administrativa es errónea, usted puede solicitar una apelación administrativa escribiendo al: Ohio Department of Job and Family Services, Bureau of State Hearings, P.O. Box 182825, Columbus, Ohio 43218-2825 o facsímil (614) 728-9574. Su solicitud debe indicar por qué usted piensa que la decisión administrativa es errónea. Usted puede completar la solicitud de apelación incluida con esta decisión. Su solicitud escrita o formulario de apelación tiene que ser recibido por el Bureau of State Hearings dentro de los 15 días calendario desde la fecha en que esta decisión es expedida. (Si el 15to. día recae sobre un fin de semana o un día feriado, esta fecha límite es extendida al próximo día laborable). Durante el período de 15 días de apelación administrativa, usted o su representante pueden solicitar una copia gratuita del récord administrativo y de la grabación de la vista llamando al Bureau of State Hearings al 1-866-635-3748 (seleccione la opción 1 del menú principal).

Si usted quiere información sobre servicios legales gratuitos pero no sabe el número de su oficina local de servicios legales, usted puede llamar al Ohio State Legal Services Association, gratuitamente, al 1-800-589-5888, para el número local.

STATE HEARING DECISION CONTINUATION

STATE HEARING DECISION CONTINUATION

Appendix

APPENDIX

Agency Exhibits

Exhibit A. Application/Reapplication Verification Request Checklist, 1 pg.

Exhibit B. CRIS-E Running Record Comment Screen, 1 pg.

Appellant Exhibit

None