

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

In the matter of:

<u>Case Number:</u>	<u>County:</u>	
1000997963	FRANKLIN	
<u>Appeal:</u>	<u>Program:</u>	<u>Disposition:</u>
1334297	FS	OVERRULED
1334298	MED	OVERRULED
No Compliance Required		
Decision Date:	04/09/2007	
Request Date:	02/23/2007	
Hearing Officer:	ELIZABETH FOSTER	

State Hearing Decision

ISSUE SECTION:

1. Participation in the food stamp program is limited to those assistance groups whose incomes are determined to be a substantial limiting factor in permitting them to obtain a more nutritious diet. By notice mailed on 2-14-07, the Franklin County Department of Job and Family Services (Agency) determined that the Food Stamps (FS) assistance group was over income to participate in the FS program and denied benefits for this case. The Appellant disagreed with this determination and requested the state hearing.

After consideration of the testimony and evidence provided at the state hearing in conjunction with the applicable policy, I found that the Agency's action was correct and in accordance with the regulations cited. Thus, I recommend that Appeal Number 1334297 (FS) be overruled.

2. The Agency also determined that the Appellant's spenddown in the Medicaid for the Disabled program would decrease from \$439 to \$410, effective 4-1-07. The Appellant disagreed with this determination and requested the state hearing.

After consideration of the testimony and evidence provided at the state hearing in conjunction with the applicable policy, I found that the Agency's action was correct and in accordance with the regulations cited. Thus, I recommend that Appeal Number 1334298 (MED) be overruled.

PROCEDURAL MATTERS:

1. The Appellant's written request for state hearing was received by the Ohio Department of Job and Family Services (ODJFS), Bureau of State Hearings on 2-23-07.
2. The state hearing was scheduled to be heard on 3-12-07, however, the Appellant requested and received a postponement. By notice mailed on 3-22-07 the state hearing was rescheduled and was heard on 4-4-07.
3. All witnesses were sworn in by the Hearing Officer.
4. The Agency prepared and presented an appeal summary which was received by the Hearing Officer on 3-12-07. The Appellant presented no documentation to the Hearing Officer at the time

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of the state hearing. All documentation received by the Hearing Officer was reviewed and entered into the hearing record in its entirety.

5. The Appellant represented himself at the state hearing. He was assisted by his brother. The Agency was represented by Amanda Lam.

FINDINGS OF FACT:

1. The household consisted of the Appellant, age 60, and his brothers, ages 55 and 58. (3 persons) The FS (FS 03) and Medicaid for the Disabled (MA-D 04) assistance groups consisted of the Appellant only. The Appellant and his brothers purchase and prepare food separately.

2. The Appellant has been determined to be a disabled person by the Social Security Administration. The Appellant receives Medicare Parts A, B and D benefits.

3. The Appellant has the following gross monthly income: unearned income in the form of the Appellant's Retired, Survivor's or Disability Insurance (RSDI), \$1067.80. (Exhibit F)

4. The Appellant pays his Medicare premium of \$93.50 per month out-of-pocket.

5. The Appellant may have a monthly premium for his Medicare Part D. This was not clearly established at the state hearing. The Appellant has not provided any verification of Part D insurance out-of-pocket premium payment to the Agency or the Hearing Officer.

6. On 2-8-07, the Agency determined that the FS assistance group (AG), which contained the Appellant only, was over income for participation in the FS program at the net income level budget. The notice for this action was mailed to the Appellant on 2-14-07.

7. The Agency used the following net income budget (Exhibit G):

Total earned income	\$	0.00
Plus total unearned income +		1067.00
Total Gross income	= \$	1067.00

Total medical costs	\$	93.50
Minus medical deduction -		35.00
Excess medical expenses	= \$	58.00

Shelter Costs	\$	115.79
Plus utilities/ utility standard +		214.50
Shelter/utility costs	=	330.00
50% of adjusted income -		437.00
Excess shelter/utility costs	= \$	0.00

Total Gross income	\$	1067.00
Earned income deduction -		0.00
Standard deduction -		134.00
Excess medical expenses -		58.00
Dependent care deduction -		0.00
Child support deduction -		0.00
Adjusted income	\$	875.00

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Minus shelter deduction - 0.00
Net adjusted income = \$875.00
Maximum net monthly income standard for an AG size of one person = \$817.00

8. The Appellant pays \$115.79 in monthly property taxes and homeowner's insurance. The three brothers live in a house that has no mortgage as it was owned in full by their late mother.

9. The Appellant pays utility costs for one-half of the water, electric, and telephone. The Appellant's 58-year old brother pays for the other half of the utility costs. The Agency allotted one-half of the standard utility allowance to the Appellant and his 58-year old brother.

10. The Agency used the following spenddown budget (Exhibit D), effective 4-1-07:

Total Unearned Income	\$ 1067.00
Minus disregard	- 20.00
Countable Unearned Income	= \$1047.00
Plus Earned income	+ 0.00
Minus earned income disregard -	0.00
Minus 1/2 of the remainder disregard -	0.00
Total Countable income	= \$ 1047.00
Minus medical insurance premium -	93.50
Ongoing income	= \$ 953.00
Minus need standard (eff. 1-1-07)	- 543.00
Delayed spenddown liability	= \$ 410.00

11. The Appellant may have some unpaid past medical bills which he has not yet presented to the Agency for consideration.

CONCLUSIONS OF POLICY:

Policy & Analysis

The first issue under consideration was the Agency's denial of FS benefits due to income in excess of the program's eligibility standard. The facts established at the state hearing showed that the Agency determined that the Appellant had income in excess of the net income standard for an assistance group of one person which is currently \$817.¹ An assistance group (AG) which contains an elderly or disabled member, but does not qualify for categorical eligibility, shall meet the net income eligibility standard in order to receive FS.²

Here, the Agency correctly used the net income budget which was reviewed at the state hearing. Each line item in the FS net income budget was reviewed at the state hearing and the Appellant affirmed that the Agency used the correct figures. I found that the Agency gave the Appellant credit for all of his allowable deductions³ in the FS net income budget including one-half of the standard utility allowance. I concluded that the Agency's action to deny FS for this case due to income in excess of the program's net income standard was correct given the verifications which the Appellant provided to the Agency at the time of the action under appeal here.

¹ Ohio Admin. Code § 5101:4-4-11, Appendix B, effective 10-1-06 (Anderson 2006)

² Ohio Admin. Code § 5101:4-4-31(Q) (Anderson 2004); 7 C.F.R. 273.9(a) (2006)

³ Ohio Admin. Code § 5101:4-4-23 (Anderson 2006)

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The second issue for the state hearing was the Agency's calculation of a monthly spenddown in the Medicaid for the Disabled program for the Appellant in the amount of \$410, effective 4-1-07. After reviewing the spenddown budget presented by the Agency, I could not find that the Agency's calculation was in error. The current need standard for an individual is \$543 per month effective 1-1-07.⁴ The Agency is required to use a specific budgeting methodology for the calculation of the monthly spenddown when the assistance group's income exceeds the applicable need standard. Here, the only allowable deductions in the spenddown budget evidenced at the state hearing were the income disregard of \$20.00, and the Appellant's Medicare premium payment of \$93.50. The Appellant's additional expenses of daily living (e.g., utilities) are not allowable deductions in the Medicaid spenddown budget.⁵ I concluded that the \$410 monthly spenddown for this case, effective 4-1-07, was correctly calculated by the Agency.

As an important aside, the facts established at the state hearing showed that the Appellant may be paying out-of-pocket for a Medicare Part D monthly premium. If this is correct, the Appellant should bring verification of this item to the assigned caseworker as soon as possible for consideration in both of the budgets reviewed at the state hearing. Similarly, the Appellant may have past unpaid medical bills at home which he should also bring to the assigned caseworker for consideration in the Medicaid spenddown budget.

HEARING OFFICER'S RECOMMENDATIONS:

Based on the record before me, I find that Appeal Numbers 1334297 (FS) and 1334298 (MED) should be overruled.

FINAL ADMINISTRATIVE DECISION AND ORDER:

Since I find the Hearing Officer's recommendation to be supported by the policy and the evidence, I hereby adopt the recommendation. The Food Stamps and Medicaid appeals are overruled.

Hearing Authority

April 9, 2007

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 COLUMBUS District hearing section at 1-866-635-3748.

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, OH 43218-2825 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 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

⁴ Medicaid Eligibility Procedure Letter No. 13 (issued 11-13-06)

⁵ Ohio Admin. Code § 5101:1-39-10(D) (Anderson 2002)

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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.

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.

Appendix

Agency Exhibits:

- A. Appeal Summary (JFS Form 04067) (1 page inclusive)
- B. Copy of Exhibit 1 (1 page inclusive)
- C. FS Gross Income Budget (1 page inclusive)
- D. Spenddown Budget (1 page inclusive)
- E. "Notice History" (2 pages inclusive)
- F. "Data Exchange Inquiry SSA Bendex Benefit" (1 page inclusive)
- G. FS Net Income Budget (1 page inclusive)

Appellant Exhibit:

- 1. "State Hearing Request" (1 page inclusive)