

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

In the matter of:

<u>Case Number:</u>	<u>County:</u>	
5068843076	MONTGOMERY	
<u>Appeal:</u>	<u>Program:</u>	<u>Disposition:</u>
1318929	OWF	OVERRULED
1318930	PAF	OVERRULED
No Compliance Required		
Decision Date:	04/23/2007	
Request Date:	11/21/2006	
Hearing Officer:	KRISTIN SACCO SMITH	

State Hearing Decision

ISSUE SECTION

(1) Appeal Number 1318930 - Food Stamps (PAF):

The Agency issued a termination notice on the Appellant's food stamps effective 11/30/06 for failing to verify a change in household, specifically, the birth of her child. The Appellant disagrees with the termination. The issue on appeal is whether the termination is correct.

After careful consideration of the evidence and regulations that apply, I find the termination to be correct. Therefore, this appeal should be overruled.

(2) Appeal Number 1318929 - Ohio Works First (OWF):

The Montgomery County Department of Job and Family Services (Agency) imposed a third occurrence sanction on the Appellant's OWF, effective 12-1-06, because she failed to comply with her self-sufficiency contract and plan. More specifically, she failed to attend three days of classes at Miami Jacobs, her assigned activity, in September. The Appellant disagrees with the sanction and believes she had good cause due to illness related to her pregnancy. The issue on appeal is whether the third occurrence sanction on the Appellant's OWF is correct.

After careful consideration of the evidence and regulations that apply, I find the sanction to be correct. Therefore, this appeal should be overruled.

PROCEDURAL MATTERS

On 11-9-06 the Agency mailed the Appellant sanction notices of her OWF and food stamps. She requested a state hearing on 11/21/06. The hearing was initially scheduled for 12/11/06 but was rescheduled at the Appellant's request. The hearing was then scheduled for and duly conducted on 2/6/07 at the Montgomery County Department of Job and Family Services. The Appellant was present and represented herself. The Agency was represented by Robert Livensperger, Supervisor. The hearing officer conducted the hearing via telephone from ODJFS' Bridgeport Processing Center. An oath was administered and taken by both parties presenting testimony.

STATE HEARING DECISION CONTINUATION

FINDINGS OF FACT

1. The assistance group size was one at the time of the termination. It consisted of the Appellant and did not include her child born 9/23/06.
2. On 10/25/06 the Appellant called the Agency to notify she had given birth to her child on 9/23/06. A Verification Request Checklist was mailed to her, due by 11/06/06.
3. The Agency requested a statement of residence/household composition, a birth certificate or hospital records, a social security card or application for the infant and a third party statement.
4. The Appellant received \$245 in OWF, and \$155 in food stamps for October and November 2006.
5. On 11-9-06 the Agency mailed notices of termination of both OWF and food stamps effective 11/30/06.
6. The Appellant requested a state hearing on November 21, 2006.
7. The Appellant provided the birth certificate and social security at the state hearing.

CONCLUSIONS OF POLICY

(1) Appeal Number 1318930 - Food Stamps (PAF):

In the present case, the assistance group qualifies as an OWF AG, which is an assistance group in which all of the members are eligible for OWF benefits. According to the Ohio Administrative Code, failure by an individual of an OWF AG, who is an adult or a minor head of household, to comply with the provisions contained in the self-sufficiency contract, as set forth in section 5104.14 of the Ohio Revised Code shall result in the imposition of a sanction as set forth in section 5107.16 of the Ohio Revised Code. *Ohio Admin. Code* § 5101: 4-3-09 (Anderson 2003). In other words, an individual who fails to comply with the self-sufficiency contract without good cause will be removed from the food stamp assistance group for the sanction period, and a reduction in food stamps for the assistance group will occur. The income and resources of the ineligible member continue to count and the entire assistance group's allowable earned income, standard, medical, dependent care, legally obligated child support and excess shelter deductions shall continue to apply to the remaining assistance group members. However, the ineligible member is not included when determining the size of the assistance group for determining the benefit level and comparing the monthly income to the income eligibility standards. *Ohio Admin. Code* § 5101: 4-6-13 (Anderson 2003).

Furthermore, an assistance group is required to report changes in the household composition, such as adding a newborn. This change is subject to the same verification procedures that apply at initial certification. The county agency must verify changes which result in an increase in an AG's benefits prior to taking action on these changes. *Ohio Admin. Code* § 5101: 4-7-01 (Anderson 2005). The Appellant reported the birth of her child one month after its birth. After receiving notice of the baby's birth, the Agency mailed a verification request checklist which included requests for landlord and third party statement forms to be completed. The Agency testified that it did not receive any verification as requested. Therefore, it proposed to terminate the Appellant's food stamps and issued a notice on 11/9/06.

Therefore, the Appellant failed to properly and timely report a change in her household and to provide the proper verifications for the child to become an AG member. Therefore, I cannot find any error on the part of the Agency regarding the addition of the baby. Thus, appeal should be overruled.

STATE HEARING DECISION CONTINUATION

(2) Appeal Number 1318929 - Ohio Works First (OWF):

According to the Ohio Revised Code, an assistance group is ineligible to participate in Ohio works first (cash assistance) unless the minor head of household or each adult member of the assistance group enters into a written self-sufficiency contract with the county department of job and family services. *Ohio Administrative Code* § 5101: 1-3-12 (Anderson 2006). The contract must set forth the rights and responsibilities of the assistance group, including work responsibilities and other requirements designed to assist the assistance group in achieving self-sufficiency and personal responsibility. *Ohio Admin. Code* § 5101: 1-3-12 (Anderson 2006). If a member of an assistance group fails or refuses, without good cause, to comply in full with a provision of a self-sufficiency contract, the county department of job and family services must sanction the assistance group. For a third occurrence failure or refusal, the county department shall deny or terminate the assistance group's eligibility to participate in Ohio works first for six payment months or until the failure or refusal ceases, whichever is longer. *Ohio Admin. Code* § 5101: 1-3-12 (Anderson 2006). Good cause includes illness of the individual. Verification of good cause may be requested of the individual. The county agency shall apply a reasonableness standard when requesting verification for both the situation for which verification has been requested and for the time frame to provide the verification to the county agency. *Ohio Admin. Code* § 5101: 1-3-12 (Anderson 2006).

Certain situations are not subject to the three tier sanction policy set forth in rule 5101:1-3-15 of the Administrative Code but continue to be subject to existing statutory and administrative rule penalties even if the requirement is included as part of the assistance group's self sufficiency contract. *Ohio Adm. Code* § 5101:1-3-14(B)(Anderson 2006). Failure or refusal to cooperate in the application and reapplication process (including failure to appear for scheduled appointments) and provide required verifications necessary to determine eligibility as set forth in rules 5101:1-2-01 and 5101:1-2-10 of the Administrative Code will result in the denial or termination of OWF. *Id.* As previously discussed, the Agency terminated the Appellant's OWF for her failure to provide verification of her child's birth and its addition to her household. While I can appreciate the fact that the Appellant may have been overwhelmed after the birth of her child, the Appellant called in to report the birth one month later. As there is no reason provided as to why the verifications could not have been provided, I find the Agency's termination to be correct. Therefore, this appeal should be overruled.

HEARING OFFICER'S RECOMMENDATION

Based on the record and Agency policy before me, I recommend that appeal numbers 1318930 & 1318929 be overruled.

FINAL ADMINISTRATIVE DECISION AND ORDER

Since I find the Hearing Officer's recommendations to be supported by policy and the evidence, I hereby adopt the recommendations and the appeals are overruled.

Hearing Authority

April 23, 2007

STATE HEARING DECISION CONTINUATION

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 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.