

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

In the matter of:

<u>Case Number:</u>	<u>County:</u>	
5028953411	GREENE	
<u>Appeal:</u>	<u>Program:</u>	<u>Disposition:</u>
1328388	FSOP	OVERRULED
No Compliance Required		
Decision Date:	04/05/2007	
Request Date:	01/18/2007	
Hearing Officer:	CYNTHIA ASHTON	

State Hearing Decision

ISSUE:

Appeal #1328388

An Assistance Group (AG) that has received more Food Stamp benefits than it is entitled to, has received an over payment that is subject to collection. The Greene County Department of Job and Family Services (Agency) determined the Assistance Group was overpaid \$1,086 in Food Stamp benefits from 06/05 through 01/06 due to failing to timely report earned income. The Agency is seeking repayment of the overpayment. Is the Assistance Group responsible for repayment of the overpayment? The Assistance Group received \$1,086 more in Food Stamp benefits than they were entitled to receive from 06/05 through 01/06. Therefore, the appeal is **OVERRULED**.

PROCEDURAL MATTERS:

An adverse action notice was issued to the Appellant on 01/11/07 regarding the Food Stamp overpayment. The Appellant disagreed with the notice and requested a state hearing on 01/18/07 (See Exhibit 1). A hearing notice was issued to all parties on 01/25/07 and a state hearing was scheduled for 02/07/07 which the Appellant did not attend. Upon a show of good cause, a new hearing notice was issued to all parties on 02/08/07 and the state hearing was rescheduled and heard on 02/20/08. The Appellant represented herself at the appeal and participated by phone at her request; the Agency was represented by Brenda Santos, Eligibility Specialist. An Appeal Summary was submitted at the hearing (See Exhibit A). Food Stamp benefits expired 01/31/06.

FINDINGS OF FACT:

1. This Assistance Group (AG) consists of the Appellant, age 45, residing alone.
2. The Appellant is a breast cancer survivor, but does not allege to have been disabled during the time period of the alleged overpayment.
3. FS were approved effective 02/02/05 through 01/31/06 with \$450/month in unearned income (military pension from ex-husband).

STATE HEARING DECISION CONTINUATION

4. The Appellant became employed as of 04/01/05 at Charming Shoppes and received her first pay on 04/15/05.
5. The Agency received an alert on 11/15/05 regarding this earned income and the caseworker entered in running record comments that the income was known to the Agency, but it was not.
6. The case was referred to investigate the alleged overpayment in 03/06.
7. On 03/06/06, the Agency verified the gross earnings from The Work Number as follows: 06/05 (\$832); 07/05 (\$871); 08/05 (\$951); 09/05 (\$1,140); 10/05 (\$1,002); 11/05 (\$1,010); 12/05 (\$436) and 01/06 (\$350) (See Exhibit B).
8. The Appellant does not dispute that she became employed as of 04/01/05 and acknowledges that she failed to report the employment to the Agency.
9. The Appellant received a total of \$1,204 in FS benefits from 06/05 through 01/06 (See Exhibit C).
10. Using the actual gross verified earnings, the Agency calculated that the Appellant was not eligible for any FS benefits from 06/05 through 11/05 and was eligible for \$46 in 12/05 and \$72 in 01/06 for a total of \$118 (See Exhibit D).
11. \$1,204 FS received minus \$118 eligible to receive, results in the \$1,086 overpaid FS benefits (\$1,204 - \$118 = \$1,086).
12. The over payment was determined to be an Inadvertent Household Error (AE).

CONCLUSIONS OF POLICY:

Food Stamp Policy:

A recipient claim for FS is an amount owed because of benefits that are overpaid or benefits that are trafficked. The county agency shall establish and collect a claim against any assistance group (AG) that has received more food stamp benefits than it is entitled to receive. Ohio Admin. Code § 5101:4-8-15 (2002) and 7 CFR § 273.18 (2005)

The county agency shall calculate claims, make collections, and disqualify AG members based on the date of overpayment, date of discovery, and the food stamp regulations in effect at the time of the overpayment. If, due to a misunderstanding or inadvertent error on the part of the AG, the AG failed to report a change in its AG circumstances within ten days of the date the change became known to the AG, the first month affected by the AG's failure to report shall be the first month in which the change would have been effective had it been timely reported. When calculating the claim amount, the county agency shall allow the maximum reporting allowance of ten days from the date of change plus the maximum allowance for notice of adverse action of fifteen days. Ohio Admin. Code § 5101: 4-8-17 (2004) and 7 CFR § 273.18 (2005)

Analysis:

In this case, the Appellant does not dispute that she was employed at Charming Shoppes as of 04/01/05 and received her first pay on 04/15/05. The Appellant acknowledges that she failed to

STATE HEARING DECISION CONTINUATION

report the employment to the Agency because she thought she was eligible for Food Stamps for twelve months after her case was approved.

In this case, this hearing officer has reviewed the calculations of the Agency in determining the overpayment, and finds the Agency has supported their determination of an overpayment by a preponderance of the evidence. The Appellant received \$1,086 in FS benefits from 06/05 through 01/06 to which she was not entitled due to failing to timely report her earnings. Therefore, the Agency is correct to recover the \$1,086 overpayment and the appeal is **OVERRULED**.

HEARING OFFICER'S RECOMMENDATIONS:

Appeal #1328388 should be **OVERRULED**. The Agency correctly determined a Food Stamp overpayment in the amount of \$1,086 for the period of 6/01/05 through 01/31/06. The Agency should proceed with the recovery action.

FINAL ADMINISTRATIVE DECISION AND ORDER:

Finding the hearing officer's decision to be supported by the evidence, the recommendation above is adopted.

Hearing Authority

April 5, 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 CLEVELAND 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.

STATE HEARING DECISION CONTINUATION

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

APPELLANT EXHIBITS:

1 – Hearing Request (1 page)

AGENCY EXHIBITS:

A – Appeal Summary and attachments (13 pages)

B – Employment verification from The Work Number (2 pages)

C – Food Stamp Issuance History from 06/05 – 01/06 (2 pages)

D – Report of Claim Determination and supporting documentation (4 pages)