

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

In the matter of:

<u>Case Number:</u>	<u>County:</u>	
5045830964	LAKE	
<u>Appeal:</u>	<u>Program:</u>	<u>Disposition:</u>
1330388	OWF	OVERRULED
No Compliance Required		
Decision Date:	04/30/2007	
Request Date:	01/30/2007	
Hearing Officer:	SANDRA KADY	

State Hearing Decision

ISSUE

1330388 OWF

Income received by the Ohio Works First (OWF) assistance group during a calendar month must be considered in determining need and the amount of OWF assistance. The county agency determined that appellant had countable income in January 2007 that was used in determining the OWF payment issued for January 2007. While the appellant contends otherwise, the evidence offered on appeal was persuasive to show the income (\$209 unemployment compensation benefits) was issued in January 2007 and therefore was countable when the two-person OWF payment amount was determined (\$127). Consequently, the appeal is Overruled.

PROCEDURAL MATTERS

By notice dated January 23, 2007, county agency informed appellant it had approved her application for OWF cash assistance, and had issued a \$127 partial OWF payment for January 2007. The appellant's state hearing request regarding the amount of the January 2007 OWF payment was received on January 30, 2007. The hearing was held on February 21, 2007, from 10-day advance notice of February 9, 2007. The appellant represented herself. County agency was represented by Julie Rowe, supervisor. An appeal summary was received from the agency on February 20, 2007.

At appellant's request, the record was held open to allow appellant an opportunity to submit documents in support of her appeal. Documents were received within the agreed on time frame.

FINDINGS OF FACT

1. The assistance group (AG) consists of appellant and one minor child.
2. Appellant applied for OWF cash assistance on or about December 28, 2006, but requested her OWF eligibility begin with January 2007.
3. The appellant was in receipt of unemployment compensation (UC) of \$209 per week.
4. County agency verified the UC claim was exhausted with the last payment issued for the week December 23, 2006.
5. Per the AEDUC State UC report (Exhibit B) obtained by the county agency, the last UC payment of \$209 was issued to appellant on January 2, 2007.

STATE HEARING DECISION CONTINUATION

6. Since the payment was issued and available to appellant in January 2007, it was considered in the January 2007 OWF eligibility determination.
7. The OWF grant of \$336 was reduced by the \$209 UC payment with the difference of \$127 issued to appellant on or about January 24, 2007.
8. The appellant affirms she received UC benefits but contends the last check was received by her in December 2006, and should not have counted for January 2007.
9. Appellant offered to submit checking account information to show the UC payment was deposited in December 2006; however, the information appellant provided was an un-postmarked Ohio Department of Job and Family Services envelope and the UC benefit payment stub.
10. The UC stub shows the date of "01/02/2007" for warrant 3677028 for \$209 for week ending 12-23-2006.
11. The AEDUC report offered by agency shows the last few UC payments were issued on the following dates: 12-4-2006; 12-18-2006 and 1-2-2007.

CONCLUSIONS OF POLICY

Policy

Ohio Administrative Code § 5101:1-23-20 (2006) discusses OWF: income and eligibility. Pursuant to Paragraph (B) of the rule, the amount of monthly countable income is considered toward the appropriate OWF need standard for the AG size. If there is a deficit, the deficit is the amount of OWF cash assistance the assistance group is eligible to receive. If there is no deficit, the assistance group is not eligible for a cash assistance payment.

Paragraph (E) of the rule discusses the availability, verification, and exploration of potential income when determining OWF eligibility. Income received by the OWF assistance group during a calendar month must be considered in determining need and the amount of OWF assistance. Gross earned income, gross unearned income and countable income are defined in paragraphs (D)(1) to (D)(3) of the rule and include unemployment compensation.

To be considered in determining the amount of OWF assistance, income must actually be received or be reasonably anticipated to be received by the assistance group during the calendar month. Only available income is considered in determining need.

Availability depends upon the date of receipt and the number of months the income is intended to cover.

Paragraph (I) of Ohio Administrative Code § 5101:1-23-20 (2006) shows the OWF payment standard is \$336 monthly for a two-person AG.

Ohio Administrative Code § 5101: 6-7-01(C) (2006) instructs that the hearing officer's findings of fact shall be based exclusively on the evidence introduced at the hearing. Per the same rule, it is the responsibility of the agency to show, by a preponderance of evidence, that the action or inaction under appeal was taken or proposed in accordance with Ohio Department of Job and Family Services regulations. Ohio Administrative Code § 5101: 6-6-02(A) (2006) instructs that the agency representative's rights and responsibilities within the state hearing include advocacy for the agency's case, providing explanation for the agency's action and submission of relevant

STATE HEARING DECISION CONTINUATION

case information and documents sufficient to show the basis for the agency's action or lack of action.

Analysis

The testimony and evidence offered indicates appellant is clear in her understanding that income received in a particular month would count when determining her eligibility for OWF cash assistance for that particular month. Appellant contends however, that her last UC check was issued in December 2006 and therefore should not count for determining her January 2007 OWF benefit. Were this the case, this contention would be correct. However, the evidence offered by both agency and the appellant shows the last UC payment was not issued until January 2, 2007. Appellant was provided an opportunity to provide her checking account records to show an earlier deposit date for the check, but these records were not submitted. Unfortunately, the envelope appellant submitted has no postmark. And finally, the payment history shows the UC payments were regularly issued at two week intervals, on a Monday, but extended to Tuesday, January 2, 2007, due to the New Year's Day holiday which occurred on Monday.

Based on the evidence as offered, the county agency's determination that the last UC benefit of \$209 was issued in January 2007 and therefore counted when the OWF benefit was determined for that month, is affirmed.

HEARING OFFICER'S RECOMMENDATION

The appeal should be Overruled and county agency's action to issue a \$127 OWF payment for January 2007 be affirmed.

FINAL ADMINISTRATIVE DECISION AND ORDER

Finding that the Hearing Officer's recommendation is supported by policy and the evidence, I hereby adopt the recommendation. Thus, appeal #1330388 OWF is OVERRULED.

Hearing Authority

April 30, 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.

STATE HEARING DECISION CONTINUATION

Appendix

APPENDIX

EXHIBITS

APPELLANT:

- 1 appellant's state hearing request dated 1-30-07; one page
- 2 UC payment stubs dated 12-18-06, 1-2-07; Ohio Department of Job and Family Services envelope; county agency "fax" cover page; five pages

AGENCY:

- A appeal summary dated 2-12-07; one page
- B AEDUC State UC report; unearned income screen; two pages
- C CLRC Running Record Comments from 1-11-07 to 2-6-07; six pages
- D OWF budgets; three pages
- E CNHD Notice History Detail screen for 1-24-07 OWF approval notice; CNHS Notice History screen; copy of appellant's hearing request; four pages

PAPERS AND EFFECTS:

Case Summary Report
IQCP Case Profile screen
CNHD Notice History Detail screen
CNHS Notice History screen