

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

ADMINISTRATIVE APPEAL SECTION

In Re Appeal of:

Docket Number:	AA-2482	
Appeal No(s)	1399884	FS
AG No.	5071412141	
Hearing Request Date:	02/22/2008	
Hearing Decision Date:	03/18/2008 / REP	
Appeal Request Date:	03/26/2008	
Agency:	MONTGOMERY CDJFS	

Administrative Appeal Decision

The appellant requests an administrative appeal of the state hearing decision issued on March 18, 2008. The state hearing decision overruled the appellant's appeal, finding that the Montgomery County Department of Job and Family Services correctly proposed a first occurrence sanction of the appellant's food stamp benefits for failure to attend her assignment under the FSET Employability Plan.¹

The state hearing decision sets forth in the findings of fact that the appellant signed the Employability Plan on January 24, 2008 and was assigned to begin her assignment at the Dayton Urban League on February 5, 2008. The Agency, however, proposed the sanction on February 13, 2008, based on a failure date of January 31, 2008.² The Agency did not provide any documentation of the appellant's assignment in January, 2008. Ohio Admin. Code 5101:6-6-02(A) provides, "The agency representative presents and is the advocate for the agency's case at the hearing. This person shall explain the reasons for the agency's action, cite the regulations upon which the action was based, provide relevant case information and documents, and answer relevant questions from the individual and the hearing officer." In this case the relevant document is the Employability Plan that was in effect in January 2008. That document is necessary to document the appellant's failure to comply with its terms. Without that document, the Agency cannot support that the appellant failed to comply with her

¹ The state hearing decision also sustained the appellant's DFA appeal. That issue was not appealed.

² See, Exhibits C and D

assignment under that plan. The Agency has failed to support its case and the sanction must be reversed.

DECISION

We therefore ORDER that the hearing decision is REVERSED as to the food stamp appeal and COMPLIANCE issue to the agency to rescind the food stamp sanction and restore lost benefits, as appropriate.

The agency is directed to send the appellant written notice of the action taken as a result of this decision via an ODJFS 4074, 4065, 7334, 7401 or other appropriate state form. The agency is to attach a copy of this notice to the ODJFS 4068 State Hearing Compliance form. The appellant retains all state hearing rights regarding any future agency determination.

Administrative Appeal Officer

CONCUR:

Administrative Appeal Officer

Chief Administrative Hearing Officer

Date of Issuance: April 10, 2008

Notice to Appellant

This Administrative Appeal decision is the final decision on this appeal from the state department of job & family services. It is binding on the department and agency, unless it is reversed or modified on appeal to the court of common pleas.

An Appellant who disagrees with this decision may appeal it to the court of common pleas pursuant to sections 119.12 and 5101.35(E) of the Revised Code. The Appellant shall mail the original notice of appeal to the department at the following address:

**Ohio Department of Job & Family Services
Office of Legal Services
30 E. Broad Street, 31st Floor
Columbus, OH 43215-3414**

The Appellant must also file a copy of the notice of appeal with the court of common pleas in the county in which the Appellant resides (Franklin County, if the Appellant does not reside in Ohio). Please note: Both the mailing to the department and the filing with the court must occur within thirty (30) calendar days of the date of issuance of this decision.

If you have questions about appealing to a court, contact your attorney, local legal aid society, or bar association. If you want information about free legal services, you can call the Ohio State Legal Services Association, toll free, at 1-800-589-5888.

cc:

Director, MONTGOMERY CDJFS

LOPEZR, POLLAR, Bureau of State Hearings