

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

In the matter of:

<u>Case Number:</u>	<u>County:</u>	
1898937329	CUYAHOGA	
<u>Appeal:</u>	<u>Program:</u>	<u>Disposition:</u>
1372075	FS	SUSTAINED
1372076	MED	SUSTAINED
Compliance Required		
Decision Date:	04/30/2008	
Request Date:	09/19/2007	
Hearing Officer:	DALE ZIVIC	

State Hearing Decision

**ISSUE SECTION**

Appeal # 1372076 MED (Low Income Families Medicaid)

The Cuyahoga County Department of Job and Family Services (agency) denied Healthy Families Medicaid on 9/11/07 because they determined that the twenty four months of time-limited Healthy Families eligibility had ended 7/31/07, and that the assistance group's income exceeds the Low Income Families (LIF) Medicaid payment standard.

The agency was unable to show when time limited Healthy Families Medicaid started, and were therefore unable to support their eligibility determination concerning when the time limit expired. The appeal should be sustained.

Appeal # 1372075 FS

The appellant is disputing the amount of the Food Stamp allotment. The appellant is seeking lost benefits saying that there was a decrease in income in January 2007. She claims that she reported and verified the change in February 2007, and the allotment was not adjusted in a timely fashion. The eligibility worker acknowledged receiving a verification that would cause an increase in Food Stamps, but it is unclear when it was received. Therefore, the appeal should be sustained.

**PROCEDURAL MATTERS**

Notice of LIF Medicaid denial was issued on 9/11/07 and a notice of Food Stamp reduction was issued 9/20/07. The appellant disputes the denial of LIF Medicaid and the reduction in Food Stamps and requested a state hearing. The state hearing request (Exhibit 1) was received by the Bureau of State Hearings on 9/19/07. The hearing scheduling notice was issued and the case was heard on 10/11/07. The agency did not submit an appeal summary. The appellant represented herself at the hearing, and the agency was represented by Kimberly Hennigan from the Cuyahoga County Department of Job and Family Services.

**FINDINGS OF FACT**

1. The household is composed of the appellant, appellant's spouse, and 5 children for a total of 7 people.

STATE HEARING DECISION CONTINUATION

2. Appellant is employed and earns \$438 per month.
3. Appellant's spouse receives \$617 in Social Security Disability. The other 6 household members receive \$68 each for a total of \$1025. ( $\$68 \times 6 = 408$ .  $\$408 + \$617 = \$1025$ )
4. All of the children are eligible for Healthy Start Medicaid.
5. The appellant was out of work from 1/23/07 to 5/29/07.
6. The change in income was verified, but it is not clear as to when.
7. The agency completed a Food Stamp underissuance for May 2007.

**CONCLUSIONS OF POLICY**

**Medicaid:**

The determination of eligibility for Healthy Families Medicaid (MA-C) is dependent in part upon the amount of income available to the assistance group. Those persons who have substantial income in excess of the established need are not eligible for Healthy Families Medicaid even though the other eligibility requirements are met. Ohio Administrative Code § 5101:1-40-20(A)(30)(2003). There are two methods for qualifying for MA-C. The first test is referred to as the LIF (Low Income Families) Budgeting methodology. This requires the assistance group's earned and unearned income, minus appropriate disregards for earned income, to be compared to the payment standard. If the countable income is less than the payment standard, the assistance group is eligible for LIF Medicaid under this method. Ohio Admin. Code § 5101:1-40-25(A)(2000). The need standard for an assistance group of 7 is \$737.

If the assistance group is found ineligible for LIF Medicaid due to the income being over the payment standard, a second test may be used to determine eligibility. This is referred to as the Time Limited Healthy Families budgeting methodology. This compares all nonexempt gross earned and unearned income to the 90% federal poverty level standard for the appropriate assistance group size. Ohio Admin. Code § 5101:1-40-25(B)(2000). However, LIF (MA-C) Medicaid under this methodology can only be received for a period of 24 consecutive months. If the assistance group was previously found eligible and received 24 months of LIF Medicaid using this methodology, the county agency must determine if the assistance group is eligible for a new 24 month period. The assistance group can regain eligibility for a new 24 month time period only after 6 full months have passed since the termination of the previous 24 month time period. Ohio Admin. Code § 5101:1-40-25(B)(2000). If the 6 months have not passed, the county agency may only determine eligibility under the first methodology.

The hearing officer's findings of fact shall be based exclusively on the evidence introduced at the hearing. It's up to the agency to show "by a preponderance of the evidence, that its action or inaction was in accordance with ODJFS rules." Ohio Admin. Code § 5101:6-7-01 (2006)

**Analysis:**

The agency denied LIF Medicaid effective 9/11/07 because July 2007 was allegedly the 24<sup>th</sup> and final month of time limited MA-C Medicaid and the assistance group's countable income was more than the LIF Medicaid payment standard.

Although the agency stated that July 2005 was the first month of eligibility under the time limited MA-C Medicaid, and that they had a screen print document from the CRISE computer system to support this contention, they failed to provide this document. Therefore, the Hearing Officer finds that the Agency failed to support their assertion that eligibility for time limited MA-C Medicaid started in July 2005 and this appeal should be sustained.

**Food Stamps**

For changes which result in an increase in an AG's benefits due to the addition of a new AG member who is not a member of another certified AG, or due to a decrease of fifty dollars or more in the AG's gross monthly income, the county agency shall make the change effective not later than the first allotment issued ten days after the date the change was reported. However, in no event shall these changes take effect any later than the month following the month in which the change is reported. Ohio Admin. Code 5101:4-7-01 (G)(1)(b)

The county agency shall restore to AGs benefits which were lost whenever the loss was caused by an error by the county agency or by an administrative disqualification for intentional program violation which was subsequently reversed, or as otherwise specifically provided for in chapter 5101:6 of the Administrative Code and paragraphs (G) to (J) of this rule entitling AGs to restoration of lost benefits.

Furthermore, unless there is a statement elsewhere in the regulations that an AG is entitled to lost benefits for a longer period, benefits shall be restored even if the AG is currently ineligible. Benefits shall be restored for not more than twelve months prior to whichever of the following occurred first.

- (1) The date the county agency receives a request for restoration from an AG; or;
- (2) The date the county agency is notified or otherwise discovers that a loss to an AG has occurred. Benefits shall be restored even if an AG is currently ineligible. Ohio Admin. Code § 5101:4-8-03 (B) (2005)

The hearing officer's findings of fact shall be based exclusively on the evidence introduced at the hearing. It's up to the agency to show "by a preponderance of the evidence, that its action or inaction was in accordance with ODJFS rules." Ohio Admin. Code § 5101:6-7-01 (2006)

**Analysis:**

Both the agency and the appellant agree that she was off work from 1/23/07 to 5/29/07, but there is a dispute as to when the appellant reported and verified the change in income. The agency contends that the appellant reported the income change at a May 2007 Food Stamp reapplication, while the appellant says that the loss of income was reported in February 2007. The agency was unable to support when the verification was received, therefore this appeal should be sustained.

**HEARING OFFICER'S RECOMMENDATION**

Appeal # 1372076 MED (Low Income Families Medicaid)

Based on the record before me, I find the appeal should be sustained. The agency failed to establish by a preponderance of evidence that eligibility under the time limited Healthy Families Medicaid methodology started in July 2005 and ended in July 2007.

Appeal # 1372075 FS

Based on the record before me, I find the appeal should be sustained with compliance. The agency should get the verification, determine when it was received, review eligibility from March and April 2007, and complete an under-issuance if appropriate.

STATE HEARING DECISION CONTINUATION

The appellant should be given written notice of the eligibility determination, affording available appeal rights.

**FINAL ADMINISTRATIVE DECISION AND ORDER**

Appeal # 1372076 MED (Low Income Families Medicaid)

Finding the Hearing Officer's decision to be supported by the evidence, the recommendations above are adopted, and the appeal is sustained.

Appeal # 1372075 FS

Finding the Hearing Officer's decision to be supported by the evidence, the recommendations above are adopted, and the appeal is SUSTAINED. The Agency is required to comply with the Hearing Officer's recommendations. Ohio Admin. Code § 5101:6-7-03(B)(1)(b) requires compliance with this decision within ten calendar days of receipt, even if the Agency must provide a supplement outside the normal issuance cycle. Compliance shall be promptly reported to ODJFS, Bureau of State Hearings, via JFS 04068, compliance form, accompanied by supporting documentation. (2003)

Hearing Authority

April 30, 2008

**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.

**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

## STATE HEARING DECISION CONTINUATION

15to. día recaee 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's Exhibits:**

1. Hearing request (1 page)