

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

In the matter of:

|                     |                   |                     |
|---------------------|-------------------|---------------------|
| <u>Case Number:</u> | <u>County:</u>    |                     |
| 5021372510          | LUCAS             |                     |
| <u>Appeal:</u>      | <u>Program:</u>   | <u>Disposition:</u> |
| 1390980             | MED               | SUSTAINED           |
| Compliance Required |                   |                     |
| Decision Date:      | 04/30/2008        |                     |
| Request Date:       | 01/02/2008        |                     |
| Hearing Officer:    | SALLY A. CASSABON |                     |

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State Hearing Decision

**ISSUE SECTION - APPEAL # 1390980 (MED)**

The Appellant requested a state hearing as he stated he received a notice from the Agency that he now was subject to a monthly spenddown liability in order to receive Medicaid assistance. The Appellant asserted he was never subject to a spenddown in the past. The issue under appeal is whether the Agency's actions were correct.

Based on a review of the testimony, this Hearing Officer finds the Agency failed to prove by a preponderance of the evidence that their actions were correct. The Agency failed to provide any documentation to support their calculations and failed to address relevant question related to the imposition of the current spenddown liability. It is, therefore, recommended that the appeal be SUSTAINED.

**PROCEDURAL MATTERS**

The Appellant's state hearing request was received by the State of Ohio on 01/02/08. The state hearing was scheduled and conducted on 01/23/08. The Appellant was contacted via telephone at his home in order to participate in the state hearing. No Appeal Summary was submitted to the Regional Office prior to the scheduled hearing. Testimony for the Agency was presented by R. Whittaker, Eligibility Specialist. The Appellant testified via telephone from his home.

**FINDING OF FACT**

1. The Appellant is a disabled individual in receipt of Medicaid assistance through the Agency.
2. The Appellant received a notice from the Agency dated 11/28/07 stating his monthly spenddown liability would increase from \$347 per month to \$636 per month effective 01/01/08.
3. The Agency budget shows total income of \$1,562 per month. The income screen submitted by the Eligibility Specialist shows two sources of income entered in the system, income entered as

STATE HEARING DECISION CONTINUATION

“CR” in the amount of \$281 and a second source of income entered as “SS” in the amount of \$1,598.

4. The Eligibility Worker was unable to explain the discrepancy and did not have any type of documentation to support the income used in the Medicaid budget.
5. The Appellant is disputing the income used by the Medicaid budget and asserts he has never had a spenddown liability. He states he receives Medicaid assistance with no monthly liability.
6. The Agency worker was unable to explain the change in the Appellant’s Medicaid assistance.
7. The Agency worker did not have the Appellant’s case file to clarify why the Appellant was now subject to a monthly spenddown in order to receive Medicaid assistance.

**CONCLUSIONS OF POLICY**

**Policy**

Ohio Administrative Code § 5101:6-7-01 (C)(2003) 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 the evidence, that the action or inaction under appeal was taken or proposed in accordance with Ohio Department of Job and Family regulations. Ohio Admin. Code § 5101:6-6-02(A)(2003) instructs that the agency representative’s rights and responsibility within the state hearing include advocacy for the agency’s case, providing explanation for the agency’s action and submission of relevant case information and documentation sufficient to show the basis for the agency’s action or lack of actions.

**Analysis**

In the current case the Appellant requested a state hearing as he received a notice from the Agency that his spenddown would increase as of 01/01/08. The Appellant expressed his confusion with the notice as he asserts he was never subject to a monthly spenddown. The Appellant does receive Medicaid assistance, however, because the Agency worker did not have the Appellant’s case file at the hearing, it is unknown what transpired prior to the Agency’s current action. The Agency was unable to provide documentation of the income used in the Medicaid budget and the budget did not correspond with the income shown on the “unearned income screen”. The Appellant was adamant he was never on a spenddown and yet the notice issued calls for an **increase** in his current spenddown. The Agency worker was unable to clarify these discrepancies nor was she able to explain the contradictions in the Medicaid budget.

As stated above, the Appellant’s case file was not available for review at the hearing and the Eligibility Worker was unable to address the Appellant’s questions regarding the change in his case. The Agency was unable to support their actions or answer relevant questions raised by the Appellant. This Hearing Officer finds that the Agency failed to prove by a preponderance of the evidence that the Appellant is subject to a monthly spenddown liability of \$636 effective 01/01/08. It is, therefore, recommended that the appeal be SUSTAINED.

**HEARING OFFICER'S RECOMMENDATION**

Based on the record before me, I find

**APPEAL #1390980 should be SUSTAINED.**

The Agency is to redetermine the Appellant's Medicaid eligibility retro-active to and including 01/01/08. As part of this redetermination the Agency is to clarify and document the Appellant's situation prior to the initiation of the monthly spenddown and document the change, if any, in the Appellant's situation that resulted in the change in his Medicaid status. The Agency shall advise the Appellant in writing of the results of this redetermination via the appropriate notice affording the Appellant full hearing rights.

**FINAL ADMINISTRATIVE DECISION AND ORDER**

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

**APPEAL #1390980 is SUSTAINED with COMPLIANCE.**

**COMPLIANCE REQUIRED**

Ohio Admin. Code § 5101:67-03(B)(1)(a) requires compliance be achieved for decisions involving public assistance, social services, or child support services within fifteen calendar days from the date of this decision, but no later than ninety calendar days from the hearing request date. 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 TOLEDO District hearing section at 1-866-635-3748.

## STATE HEARING DECISION CONTINUATION

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.

**Appendix**

**APPENDIX**

**Appellant's Exhibits**

1. Appellant's State Hearing Request (2 pages).

**Agency's Exhibits**

- A. Medicaid determination budget and income screen (2 pages).