

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

In the matter of:

| | | |
|------------------------|-------------------|---------------------|
| <u>Case Number:</u> | <u>County:</u> | |
| 7010398704 | CUYAHOGA | |
| <u>Appeal:</u> | <u>Program:</u> | <u>Disposition:</u> |
| 1436840 | IVD | OVERRULED |
| No Compliance Required | | |
| Decision Date: | 04/02/2009 | |
| Request Date: | 09/10/2008 | |
| Hearing Officer: | MICHAEL MCCARTNEY | |

State Hearing Decision

ISSUE SECTION:

AA – 3332 & Appeal # 1436840 (CHILD SUPPORT):

The case was remanded to the Hearing Authority by Administrative Appeal on 11/26/08 to reschedule the state hearing. The state hearing was rescheduled for 03/24/09. A Child Support case may be terminated if the children in the child support case have been emancipated and the child support arrears have been satisfied. The Cuyahoga County Child Support Enforcement Agency has proposed the closure of the Child Support case because the children in the case were emancipated and the arrears owed to the Ohio Department of Job and Family Services and Appellant have been satisfied. At issue is whether the proposed closure of the Child Support case is correct.

After considering testimony and evidence provided at the state hearing, and applicable policy, the Hearing Officer concludes the proposed closure of the child support case is correct because the four minor children were emancipated in 1987, 1988, 1989 and 1991 and the Court of Common Pleas has found the non-custodial parent does not have arrears. It is recommended the appeal be overruled.

PROCEDURAL MATTERS:

Notice of case closure was issued 09/08/08. The state hearing request was received in the Bureau of State Hearings 09/10/08 and scheduled for 10/28/08. Appellant was an hour late for the state hearing and requested a reschedule. The reschedule request was denied 11/12/08. Appellant requested an Administrative Appeal 11/14/08. The case was remanded by Administrative Appeal on 11/26/08 to be rescheduled. The case was rescheduled and heard on 03/24/09. Sandra Howard was the representative for the Cuyahoga County Child Support Enforcement Agency (Agency). Appellant represented herself at the appeal. The Appeal Summary was received 03/24/09 (Exhibit A).

FINDINGS OF FACT:

1. Appellant was the custodial parent of the four children in the Child Support case.
2. The four children reached the age of majority in 1987, 1988, 1989 and 1991 respectively.
3. The Emancipation Notices were issued in 2003.

STATE HEARING DECISION CONTINUATION

4. The Child Support case should have been terminated in 2003 but the Agency did not complete the emancipation process.
5. Child Support payments were apparently made after 2003 whenever the non-custodial parent obtained employment.
6. The Agency received one payment in 2001 and 2002, two payments in 2004 and two payments in 2008.
7. A full audit calculation completed in 08/08 reflects the non-custodial parent does not owe arrears and the custodial parent was overpaid by \$1,282.54.

CONCLUSIONS OF POLICY:

A CSEA may terminate services when the case record contains verification that the case meets one of the following criteria: there is no continuing duty of support, as described in section 3103.03 of the Revised Code, owed to the CP or caretaker and one of the following applies: there is no support order and paternity establishment is not required; the court or administrative support order has been terminated and there are no arrears or the total of all arrears is less than five hundred dollars and a payment has not been received on the case within the preceding six months. Ohio Admin. Code § 5101:12-10-70 (D) (2008)

Appellant disagrees with the closure of the Child Support case because she believes the non-custodial parent owes arrears of \$30,000 based on an automated voice mail message through the Agency.

Pursuant to the Cuyahoga County Court of Common Pleas Journal Entry dated 07/31/08 and filed 08/06/08, the four children in the Child Support case were emancipated in 1987, 1988, 1989 and 1991. The Child Support was terminated effective 07/31/08. A full audit calculation was completed as of 08/08 and the custodial parent has received a child support overpayment in the amount of \$1282.54. As of 08/08, the non-custodial parent had zero arrears to the custodial parent. Neither the Bureau of State Hearings nor the Child Support Enforcement Agency has jurisdiction over a Common Pleas Court Order. Appellant's only remedy would be to file an appeal with the Cuyahoga County Court of Common Pleas. It is found the proposed closure of the Child Support case is correct and in accordance with established rules.

HEARING OFFICER'S RECOMMENDATIONS:

AA – 3332 & Appeal # 1436840 (CHILD SUPPORT) – Based on the record before me, I find the appeal should be overruled.

FINAL ADMINISTRATIVE DECISION AND ORDER:

Since I find the Hearing Officer's decision to be supported by the evidence, the recommendation above is adopted, and the appeal is overruled.

Hearing Authority

April 2, 2009

STATE HEARING DECISION CONTINUATION

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 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:

Exhibit 1: State hearing request dated 09/10/08 (1 page)

AGENCY EXHIBITS:

Exhibit A: Appeal Summary dated 03/24/09 (1 page)

Exhibit B: Domestic Relations Court Order dated 07/31/08 (1 page)

Exhibit C: 2008 Audit (12 pages)

Exhibit D: Record comments (2 pages)