

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

ADMINISTRATIVE APPEAL SECTION

In Re Appeal of:

Docket Number:	AA-506	
Appeal No(s)	1310704	FS
	1310706	MED
AG No.	5010928157	
Hearing Request Date:	10/10/2006	
Hearing Decision Date:	10/31/2006 / DCL	
Appeal Request Date:	11/15/2006	
Agency:	LUCAS CDJFS	

Administrative Appeal Decision

The appellant has requested an administrative appeal of the state hearing decision issued October 31, 2006. The state hearing decision sustained the appellant's Medicaid appeal and ordered the Agency to reinstate the Low-Income Families Medicaid for the appellant's wife and conduct a pre-termination review. The state hearing decision overruled the appellant's food stamp appeal, finding that the Agency's determination of a \$99 monthly allotment is correct.

The Agency proposed termination of the appellant's Low-Income Families Medicaid coverage because there is no longer a minor child in the household. The household consists of the appellant, his wife and their three children, ages 22, 21 and 19. Upon termination of the Low-Income Families Medicaid, the appellant was approved for Medicaid for the Aged, and the youngest child was placed on Medicaid for children under the age of twenty-one. The appellant's twenty-one year old child continues to receive Medicaid for children under the age of twenty-one. There is no medical coverage for the twenty-two year old. The appellant's wife was terminated from the Low-Income Families Medicaid. The appellant's wife has alleged a disability. The hearing officer found that the Agency failed to complete a pre-termination review of the wife's eligibility prior to terminating the Low-Income Families Medicaid. The hearing officer ordered the Agency to reinstate the Low-Income Families Medicaid for the appellant's wife and conduct a pre-termination review. We find that determination to be correct.

The Agency determined that for food stamp purposes the appellant's household consisted of an assistance group of three, the appellant, his wife and his 22 year-old child. All three of the appellant's children are full-time college students. Ohio Admin. Code 5101:4-6-04(A) states:

An individual who is enrolled at least half-time, as determined by the school, in an institution of higher education shall be ineligible to participate in the food stamp program unless the individual qualifies for one of the exemptions in paragraph (B) of this rule.

One of the exceptions listed in paragraph B is an exemption for a student who is employed for a minimum of twenty hours per week . The agency determined that only the twenty-two year old meets this requirement. Based on an assistance group of three, the Agency determined a monthly food stamp allotment of \$99 per month. The budget was determined as follows:

Earned income (22 year old)	\$1087
+ Unearned Income (SSI)	+ 499
+ Unearned Income (retirement)	+ 132
<u>Total Gross Income</u>	<u>\$1718</u>
- 20% earned income deduction:	- 217
- <u>\$134 standard deduction</u>	<u>- 134</u>
Adjusted Income	\$1367

The hearing officer determined that the assistance group was not entitled to an excess shelter allowance. The Agency used monthly rent of \$65 plus a standard utility allowance of \$429, for total shelter costs of \$494. Because this amount is less than 50% of the adjusted income, \$683, there is no excess shelter allowance. The hearing officer found that based on an adjusted income of \$1367, the assistance group was entitled to \$99 in food stamps. That allotment amount does not correlate with the amount set forth in the Basis of Coupon Issuance Tables in Ohio Admin. Code 5101:4-5-01 for an assistance group of three with adjusted income of \$1367. However, Ohio Admin. Code 5101:6-8-01(I)(6) states that, "In no event shall the administrative appeal process result in a determination more adverse to the individual than was contained in the initial decision being appealed." Therefore, the hearing officer's finding affirming the agency's \$99 calculation should stay in effect until case re-determination or if the agency has some other reason to review his allotment.

Additionally, the appellant contends in his administrative appeal request that the incorrect amount of rent was being used. The appellant submitted a rent change form, dated February 17, 2006, that indicated that the total resident rent is \$355 per month. It is unclear whether the appellant's rent includes any utilities. The appellant did not indicate at the hearing that he was paying the \$355 rent. This could potentially change the appellant's food stamp budget. Because this was not addressed at the state hearing, it is not a basis to reverse the state hearing decision. The appellant should address this issue separately with the agency.

DECISION

We hereby ORDER that the hearing decision is AFFIRMED.

Administrative Appeal Officer

CONCUR:

Administrative Appeal Officer

Chief Administrative Hearing Officer

Date of Issuance: November 30, 2006

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, LUCAS CDJFS

LEHMAS01, LECKD, Bureau of State Hearings