

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

In the matter of:

<u>Appeal:</u>	<u>Program:</u>	<u>Disposition:</u>
1255742	IVD	OVERRULED
No Compliance Required		
Decision Date:	12/22/2005	
Request Date:	11/04/2005	
Hearing Officer:	GLADYS SMITH	

State Hearing Decision

ISSUE SECTION

Appellant received public assistance through the Washington County Department of Job and Family services beginning 02/90 through 05/98, with assignment of her child support arrears as required. Appellant's child support arrearage as reported by the child support agency county of jurisdiction as of 03/31/94, was \$17,356.00 which increased to \$32,046.00 as of 05/31/98, public assistance termination date. Appellant's support order, enforced through Washington County Child Support Enforcement Agency (hereinafter referred to as the Agency), terminated 07/03/02, and the current arrearage balance owed to her is \$10.50. Appellant disagrees with the Agency's application of support payments received, to the State for reimbursement of public assistance. Appellant argues when she applied for public assistance her worker told her she would be receiving child support until she or the absent father expired. The issue is whether the Agency's application of support payments received for Appellant's case for payment of support arrearage owed to the state in the amount of \$32.046.00 is correct?

Based on the evidence presented the Agency's action is found to be in adherence to the cited regulations. Thus, the Agency's application of support payments received for Appellant's case to the \$32.046.00 support arrearage owed to the state is correct.

APPEAL 1255742 is OVERRULED.

PROCEDURAL MATTERS

1. The hearing request was received by the Bureau of State Hearings on 11/04/05, appeal number 1255742 (IVD) assigned.
2. The state hearing was scheduled for and held on 11/22/05, at Washington County child Support Enforcement Agency as a telephone conference hearing attended by Appellant, her daughter and Agency representative; Denise Hinton, Case Manager and Barbara Tertalina, Supervisor.
3. The participants were sworn in by the Hearing Officer as required.
4. Agency provided an Appeal Summary, DHS 4067, as required along with Appeal Summary narrative and case information documentation for inclusion with the hearing record as Agency Exhibits.

FINDINGS OF FACT

Undisputed Facts

1. Journal Entry for a Temporary Order was filed for Appellant's case on 07/03/05, through the Fairfax County Virginia court with specification that amount of child support to be determined by the court.
2. Effective 11/20/85, Judgment Entry Decree of Divorce was filed for Appellant's case, support was not established.
3. Judgment entry for support order filed by Fairfax County Virginia on 04/01/89, for Appellant's case for \$294.00 per month. Appellant is the obligee of this order.
4. Appellant received public assistance through the Washington County Department of Job and Family services beginning 02/90 through 05/98. Appellant's actual public assistance debt for this time period is \$41,950.00.
5. Appellant's order \$294.00 ordered child support amount effective 04/01/98, was less than the public assistance monthly grant award and she received a \$50.00 disregard payment monthly.
6. Appellant's child support arrearage as reported by the child support agency county of jurisdiction (Fairfax County Virginia) as of 03/31/94, was \$17,356.00; the child support arrearage as of 05/31/98, public assistance termination date, had increased to \$32,046.00.
7. Effective 07/11/00, Journal Entry for Confirmation of Registered Support Order filed in Washington County.
8. Appellant's youngest child in the support order graduated from high school 06/02/02.
9. On 07/03/02, Judgment Entry was filed for the order terminating support based on the last child of the order emancipated, with payment of the arrears continuing at \$294.00 monthly.
10. From 07/02 through 11/05, Appellant received all the support arrearage due her and is now paid down to \$10.50.
11. Appellant now disagrees with the Agency's continued receipt of the monthly \$294.00 support payments to be applied to the State for reimbursement of the past public assistance in the amount of \$32, 046.00 received for her case.

Disputed Facts

{None presented}

CONCLUSIONS OF POLICY

Policy

Ohio Administrative Code (OAC) § 5101:1-3-10 Ohio Works First (OWF): Child support requirement

STATE HEARING DECISION CONTINUATION

(A) Assignment In accordance with section [5107.20](#) of the Revised Code, participation in OWF constitutes an assignment to ODJFS of any rights that members of an assistance group have to support from any other person, not exceeding the total amount of assistance paid to the assistance group which accrue or have accrued as of and including the date that the OWF cash assistance is terminated. This assignment excludes medical support assigned pursuant to section [5101.59](#) of the Revised Code. The rights to support assigned to ODJFS pursuant to this rule constitutes an obligation to ODJFS for the amount of cash assistance paid to the assistance group. The CSEA is responsible for the collection and distribution of support payments owed to OWF participants whether assigned to ODJFS or unassigned.

(2) The assignment gives ODJFS the right to claim any support collected for the assistance group not exceeding the total amount of cash assistance paid to the assistance group

(3) The assignment of support rights is effective the first of the month following the date of approval for OWF cash assistance

(b) Upon authorization of the termination of OWF cash assistance, the CSEA is notified of the termination effective date and the need to release current support payments.

Ohio Administrative Code (OAC) § 5101:1-29-31 Distribution and disbursement of child support

(L) Requirements for former assistance cases:

(1) The effective date of termination of assistance is the last day of the month in which the household receives its last assistance payment. When the case is terminated, the support enforcement tracking system (SETS) is electronically notified by the client registry information system – enhanced (CRIS-E).

(2) Upon the notification of termination of assistance, current support shall be disbursed to the obligee according to the support order to satisfy the current support obligation to the fullest extent possible. No money collected pursuant to the support order for current support may be applied to unreimbursed assistance.

(3) Upon the notification of termination of assistance, SETS will determine the amount of permanently assigned arrearages, the amount of temporarily assigned arrearages, never-assigned arrearages, unassigned during assistance arrearages, unassigned pre-assistance arrearages and the amount of conditionally assigned arrearages.

(a) The state shall retain assignment on the permanently assigned arrearages.

5101:1-31-14 Allocation hierarchy for collections

Allocation hierarchies, as determined by federal and state laws and policies, are set forth in this rule. The five hierarchies include a standard hierarchy, income withholding, federal tax offset, unemployment benefits and lump sum.

(A) The standard allocation hierarchy includes payments that are not described in other hierarchies included in this rule. Collections received for the month will be applied to the monthly obligation in the following sequence:

(1) Current child support.....

(4) Ordered payment on arrears.

(a) Child support arrearage.

(6) Collections received for the month in excess of the monthly obligation shall be applied in the following sequence for non-public assistance cases.

(e) Child support permanently assigned arrears.

Analysis

STATE HEARING DECISION CONTINUATION

In the present case Appellant applied for public assistance in 02/90, with assignment of child support arrears as required. Appellant's support arrearage as of 03/31/94, was \$17,356.00 which increased to \$32,046.00 as of the 05/31/98, public assistance termination date. Appellant's total public assistance amount received from 02/90 through 05/31/98, was \$41,950.00. Appellant is the obligee for the support order whereas, the absent father was ordered to pay \$294.00 per month effective 04/01/98. On 07/03/02, Judgment Entry was filed for the order terminating support based on the last child of the order emancipated, with payment of the arrears continuing at \$294.00 monthly. . From 07/02 through 11/05, Appellant received all the support arrearage due her which is now paid down to \$10.50 and she disagrees with her support payments applied to arrearage owed to the state in the amount of \$32.046.00. According to Ohio Admin. § Code 5101: 1-3-10 the assignment gives ODJFS the right to claim any support collected for the assistance group not exceeding the total amount of cash assistance paid to the assistance group. Per regulation the assignment of support rights is effective the first of the month following the date of approval public assistance and upon termination effective current support payments are released. Ohio Admin. Code § 5101:1-29-31 provides language pertaining to distribution and disbursement of child support, Ohio Admin. Code § 5101: 1-31-14 speaks to the allocation hierarchy for collections. Upon review of the evidence presented the Hearing Officer finds the Agency's action pertaining to Appellant's case is in adherence to the cited regulations. The Hearing Officer, therefore further finds the Agency's application of support payments received for Appellant's case to the \$32.046.00 support arrearage owed to the state is correct.

HEARING OFFICER'S RECOMMENDATION

Based on the record and Agency policy before me, I recommend that appeal 1255742 be OVERRULED.

FINAL ADMINISTRATIVE DECISION AND ORDER

Since I find that the Hearing Officer's recommendation is supported by policy and the evidence, I hereby adopt the recommendation. Thus, appeal 1255742 is, hereby, OVERRULED.



Ethan Chase, Hearing Authority

December 22, 2005

Notice to Appellant

STATE HEARING DECISION CONTINUATION

This is the state hearing decision in your case. All papers and materials introduced at the hearing or otherwise filed make up the hearing record. The hearing record will be maintained by the Ohio Department of Job and Family Services.

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, Ohio 43218-2825 or FAX (614) 728-9574. Your request should state why you think the hearing decision is wrong. You can complete the appeal request form included with this decision. Your written request or appeal form 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 or your representative may request a free copy of the hearing record and recording of the hearing by calling the Bureau of State Hearings at 1-866-635-3748 (select option 1 from main menu).

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.

STATE HEARING DECISION CONTINUATION

Appendix

APPENDIX

Agency Exhibits

Exhibit A. Appeal Summary, ODHS 4067

Exhibit B. Appeal Summary Narrative, 2 pages

Exhibit C. Judgment Entry Temporary Order, 2 pages

Exhibit D. Judgment Entry Decree For Divorce, filed 11/20/85

Exhibit E. Support Order Filed

Exhibit F. Journal Entry: Confirmation of Registered Support Order, Filed 07/11/00

Exhibit G. Order Terminating Support Filed 07/03/02

Exhibit H. Payment History

Exhibit I. Single Distribution Card (pre Sets)

Exhibit J. Multiple Distribution Card (pre Sets)

Exhibit K. Single Order Distribution Record

Exhibit L. Year to Date Audit

Appellant Exhibits

None