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STATE HEARING DECISION

ODHS 4005 (Rev. 9/94)

County LAWRENCE	District Hearings Section COLUMBUS	Assistance Group Name T. F.		Assistance Group Number [REDACTED]
Place of Hearing LAWRENCE CDHS	Initial Hearing Date 09/20/2000	Rescheduled Postponed to 10/10/2000	Rescheduled Postponed to 10/10/2000	Rescheduled Postponed to 09/26/2000

Appellant/Representative T. F.		RECEIVED JUN 28 2001 NATIONAL CENTER ON POVERTY LAW		
Appellant Representation T. F., Appellant., F. F., Husband of Appellant; Patrina Adkins, Paralegal, SEOLS				
Local Agency Representation Cathy Bolner, IMW; Kathy Nenni, Supervisor				
Date Notice Mailed 08/24/2000	Date Received by Local Agency	Date Received by DDHS 09/05/2000	Date Appeal Summary Received 09/12/2000	Date Scheduling Notice Mailed 10/02/2000
Appeal Number(s)/Program(s) 9959329/OWF, 9962664/OWF				

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 COLUMBUS District hearing section at 1-800-686-1568.

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, Office of Legal Services, 30 East Broad Street, 3 1st Floor, Columbus, Ohio 43266-0423 or FAX (614) 752-8298. 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 Office of Legal Services 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.

ISSUE SECTION:

- By notice issued on 8-24-00, the Lawrence County Department of Job and Family Services (Agency) proposed termination of the Appellant's Ohio Works First (OWF) cash benefits due to a determination that the Appellant had reached the **36-month** time limit for receipt of OWF benefits. The Hearing Officer found that the evidence and testimony provided at the hearing showed that the Appellant has received OWF cash assistance for a total of 36 months. Thus, Appeal Number 9959329 (OWF) is overruled.
- By notice issued on 9-13-00, the Agency denied the Appellant's application for a hardship extension of her OWF cash benefits due to a determination that the household did not meet any of the Agency's exemptions listed in its hardship plan. The Legal Representative asserted at the hearing that the Appellant may meet Exemptions (1) and/or (2) of the Agency Hardship Plan. The Hearing Officer found that the evidence and testimony provided at the hearing showed that the Appellant did not meet either Exemption (1) or (2) of the Agency Hardship Plan. Thus, Appeal Number 9962664 (OWF) is overruled.

EAF

Appeal(s) OVERRULED 9959329, 9962664	Date Issued 10/20/2000	Compliance
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Distribution: Original to appellant, one copy to local agency; one copy to district Hearing section; one **copy** to district **office**; two copies to State Hearings. Photocopy to appellant's authorized representative, if any, and to **ODHS units as appropriate.**
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PROCEDURAL MATTERS:

1. The Appellant's written request for state hearing on the issue of time limits was received by the Ohio Department of Job and Family Services (ODJFS), Bureau of State Hearings on 9-5-00. The Appellant's written request, via the Legal Representative, for a state hearing on the issue of a hardship exemption was received by the ODHS, Bureau of State Hearings on g-20-00.
2. The state hearing was scheduled to be heard on g-20-00 and g-26-00, however, postponements were requested by the Legal Representative. Good cause for the postponement was found by the District Hearing Authority and the case was rescheduled and both issues were heard, via video conference, on 10-10-00.
3. All witnesses were sworn in by the Hearing Officer.
4. The Agency prepared two appeal summaries which were received by the Hearing Officer on 9-12-00 and 10-5-00. The Appellant's Legal Representative presented evidence to the Hearing Officer on 10-10-00 which is included in the hearing record.
5. The Appellant was represented at the hearing by her Legal Representative. The Appellant was accompanied at the hearing by her husband (Husband).

FINDINGS OF FACT:**Undisputed Facts**

1. The OWF assistance group (AG) consists of the Appellant and the couple's two minor children, ages 5 and 7. The household includes all OWF AG members plus the Appellant's husband (Husband) who is also the father of the children. The Husband is excluded from the OWF AG as he receives supplemental security income (SSI).
2. The Appellant receives **OWF** cash benefits through the Agency.
3. The CRIS-E IQCH print-out, "Cash Issuance History," (Exhibit **K**) shows that OWF cash benefits were issued to the **Appellant** and cashed from 10-1-97 through g-30-00, a period of 36 months.
4. The CRIS-E IQCH print-out, "Cash Issuance History," (Exhibit **K**) does not show that any of the warrants issued for the 36 months at issue were returned uncashed.
5. The Appellant's OWF benefits have continued due to a hearing request received within the prior notice period
6. On 8-23-00, the Agency determined that the Appellant would receive her **36th** month of OWF cash

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benefits with the benefit issued for the month on **9/00**. The Agency proposed termination of OWF cash benefits effective g-30-00. The notice of adverse action was mailed to the Appellant on 8-24-00.

7. On g-12-00, the Appellant applied for a hardship exemption at the Agency offices (Exhibit **N**). On g-12-00, the Agency acted to deny the Appellant's application for a hardship exemption because, "the total gross income for the AG exceeds the **OWF** payment standard for the AG size." The Agency had used the Husband's SSI income in making this determination. The notice of adverse action was mailed to the Appellant on **9-13-00**.

8. On 10-2-00, the Agency reviewed the Appellant's **9-12-00** application for a hardship exemption in light of a revised Agency hardship policy (Exhibit **M**). On 10-4-00, the Agency acted to deny the Appellant's application for a hardship exemption (Exhibit 0) because the Agency hardship plan "has been revised since g-12-00 (original hardship application date). Re-evaluation has been completed by the agency. [Appellant] does not meet any of the criteria guidelines in our revised plan." The notice of adverse action was mailed to the Appellant on 10-4-00.

9. The Agency exempted the Appellant from any work/alternative/developmental activities for the first 22 months of the 36-month period in question.

10. The Appellant has been assigned to counseling at a family guidance center as her sole developmental activity since the month of **9/99**.

11. The Agency identified the Husband's disability as a barrier for the Appellant to participate in work activities. No other barriers to participation were identified by the Agency.

12. The Husband has been diagnosed with **PostTraumatic** Stress Disorder, alcoholism, and depression (Exhibits 1, 5, 7, 12 and 13).

13. The Appellant has not applied for SSI nor CMS disability through the Agency.

14. The Appellant has not alleged a disability for herself to the Agency.

Disputed Facts

There were no disputed facts at the hearing.

CONCLUSIONS OF POLICY:

Policy

1. Ohio Revised Code (ORC) sec. 5 107.18 (1997) provides that an assistance group is ineligible to participate in **OWF** if the assistance group includes an adult who has participated in the program for thirty-six months. This time limit began effective October 1, 1997, and applies whether or not the months are consecutive. Any assistance provided by any state under Title IV-A of the Social Security Act on or after October 1, 1997, is included.

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2. ORC sec. 5 107.18 **(B)** through **(E)** (1997) outlines the exceptions to the 36-month time limit. Division **(B)** state that individuals who have ceased to participate in OWF due to the 36-month limit for at least 24 months may reapply to participate if good cause exists as determined by the CDJFS. Division **(C)** disregards months in which the parent or pregnant woman was a minor child but neither a minor head-of-household nor married to the head of the AG. Division **(D)** deals with exceptions applying to benefits received while residing on Indian reservations and in Alaskan native villages. Division **(E)** provides that a CDJFS may exempt up to twenty percent of the average monthly caseload if the county determines that the time limit is a hardship.

3. Ohio Administrative Code (OAC) sec. 5101 :1-23-01 (2000) states that, as set forth in ORC sec. 5 107.18, participation in the OWF program is time limited. Receipt of "assistance" may be any of the following:

- (1) OWF cash assistance benefits;
- (2) some types of supportive services such as transportation or child care, **unless** such payments meet the definition of nonrecurrent, short-term benefits;
- (3) a monthly OWF benefit which has been reduced to zero to repay an overpayment; or
- (4) TANF assistance received in another state on or after October 1, 1997.

Receipt of "assistance" is counted for the following individual members of an assistance group:

- (1) the adult head-of-household;
- (2) the spouse of the adult head-of-household;
- (3) a pregnant minor head-of-household;
- (4) a minor parent head-of-household; and
- (5) the spouse of a minor parent head-of-household.

When an AG is receiving OWF cash assistance benefits on the basis of a hardship determination, such benefits continue to count toward the federal 60-month time limit. When an AG is receiving OWF cash assistance benefits on the basis of a hardship extension, the AG is in receipt of OWF, and, as such, is subject to all OWF eligibility requirements.

4. The Lawrence County Department of Job and Family Services "OWF Hardship Exemption Criteria" (Agency Hardship Plan) (see Exhibit **M**) effective 10-1-00 lists the following guidelines for a hardship extension (this list is all-inclusive):

- "(1) Individuals who are enrolled in an educational/training program directly related to employment of at least 35 hrs. per week. If the program will be completed within six months OWF benefits may be provided for up to Six (6) Full Payment months or upon completion of the program; whichever is less.
- (2) Medical Exemption: A basic medical must be provided by a licensed physician, psychologist or psychiatrist and verifies that the OWF individual, who was subject to the time limit, has a physical or mental disability that will last at least 12 months. The individual must apply for SSI and provide verification of the SSI application and medical disability. OWF benefits may be provided for no longer than Six (6) Full Payment months or approval/denial of SSI; whichever is less. The case will be re-evaluated at the end of the six months to determine eligibility for another Six (6) months.
- (3) Catastrophic illness: If an AG suffers a loss of income due to catastrophic illness, and a basic medical is provided to show that the disability will last at least **3-months**, but less than 12-months, OWF benefits may be provided for no longer than Six (6) Full Payment months, or until the disability

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ends; whichever is less.

(4) If an individual has provided verification from a licensed physician that they have a **High-Risk** pregnancy, OWF may be provided throughout the pregnancy and up to Three (#) Full payments months after the birth of the child.

(5) An **OWF** individual who been screened and diagnosed a chemically dependent and who is actively engaged in a certified Treatment Program. As a condition for remaining eligible, the participant must show evidence of making progress in the program. This determination will be made by the LCDJFS in consultation with the Treatment Provider. Up to Three (3) additional OWF Full payment months may be granted.

(6) A Single parent Assistance Group caring for a severely disabled child, living in the home and unable to attend school, may continue to receive OWF is adequate substitute care is not available. A statement must be provided from a licensed physician or psychologist that indicates the need for **24-**hour care. The AG must apply for Waiver Services. The exemption also applies to a Two Parent Assistance Group when one of the adults has a verified disability. Eligibility must be redetermined every six months.

(7) If the Assistance Group member is a single custodial Parent, OWF benefits may be provided for up to Three (3) Full Payment months from the birth of the child.

(8) If the Assistance Group member is residing in a domestic Violence shelter or provided verification that charges have been filed and they are not living with the alleged perpetrator, OWF benefits may be provided for up to Three (3) Full Payment months.

(9) If Individual [sic] is a teen parent (Head of Household) and Attending either High School or ABLÉ classes full-time, but has not graduated, OWF benefits may be provided up to Six (6) Full Payment Months if they remain a full-time student.

(10) If the Assistance Group has an active case with LCDJFS Childrens Services Unit and is satisfactorily participating with the case plan, OWF could be provided for up to Six (6) Full Payment Months or at the end of the Reunification Plan, whichever is less.

(11) If an Assistance Group is homeless and reasonable verification has been provided, OWF benefits may be provided for up to Three (3) Full Payment Months. The Assistance Group must utilize the PRC program. This Exemption is Limited to One Time Only.”

Analysis

With regard to the issue of the proposed termination of OWF benefits due to time limits ORC section 5 107.18 provides that an AG is ineligible to participate in OWF if the AG includes a co&able individual who has participated in the program for thirty-six months. The Appellant did not dispute receipt of OWF cash benefits for any of the 36 months for the period of 10-1-97 through 9-30-00. The facts established at the hearing showed that the Appellant was in receipt of OWF benefits for a period of thirty-six months. Further, it was established that the Appellant meets the definition of an AG member for whom OWF time limits are countable. Therefore, the Hearing Officer concludes that the proposal to terminate OWF benefits for the Appellant and any affected AG members was correct and should be affirmed.

For the issue of the Agency’s denial of a hardship exemption for the Appellant, ORC sec. 5 107.18(E) provides that the Agency may exempt up to twenty percent of its average monthly caseload if the

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Agency determines that the **36-month** time limit is a hardship for the OWF assistance group. In the instant case, the Agency determined that the OWF AG did not meet any of the exemptions listed in its revised Hardship Plan (Exhibit **M**). At the hearing, the Legal Representative asserted that the Appellant may meet the exemptions listed as (1) and (2) in the Agency Hardship Plan. Exemption (1) exempts "individuals who are enrolled in an educational/training program directly related to employment of at least 35 hrs. per week" for up to six payment months. There was no evidence or testimony presented at the hearing to show that the Appellant is enrolled in such a training program. The only activity to which Appellant testified attending on a regular basis is counseling at the Family Guidance Center. The Hearing Officer found that the Agency's determination that the Appellant did not meet Exemption (1) was correct.

Exemption (2) of the Agency Hardship Plan exempts individuals for up to six payment months who have a verified disability which is expected to last at least 12 months. The individual must provide evidence of an active SSI application and a completed ODHS 7302, "Basic Medical" form to the Agency. The Appellant does not have an active SSI application nor has she provided a completed Basic Medical form to the Agency which would evidence such a disability. The Hearing Officer found that the Agency's determination that the Appellant did not meet Exemption (2) was correct. At the hearing, the Appellant testified that her doctor had advised her that she had a thyroid condition. The Agency Representative responded that if Appellant is alleging a thyroid condition as a disability, the Agency would provide a Basic Medical form to the Appellant for completion by her doctor. The Agency Representative further testified that the Appellant is free to make a new application for a hardship exemption for Exemption (2), however, the Appellant must provide the required verifications in order to be approved.

The Appellant's Legal Representative's final argument was that at least 22 months of the 36-month period should not be counted for time limits purposes as Appellant was not placed in a work activity during this time and is, therefore, presently not self-sufficient. The Hearing Officer found that this argument is not well-taken as Appellant's exclusion from the work activity was at her request to stay home with her Husband. Second, Appellant's testimony at the state hearing was contradictory in that she first testified that she believed that she was unable to work because she "forgets things," then, later, the Appellant testified that even though she has never worked outside the home, she has a strong desire to do so. Finally, the key to a determination of whether the proposal for termination of OWF due to reaching the **36-month** time limit was appropriate, hinges in the Appellant's receipt of OWF cash benefits for the entire 36-month period. As Appellant did not dispute receipt of the OWF cash benefits for each month during the **36-month** time period, the Hearing Officer found that the Agency's actions were correct and in accordance with the regulations cited.

HEARING OFFICER'S RECOMMENDATIONS:

Based on the record before me, I find that Appeal Numbers 9959329 (OWF) and 9962664 (OWF) should be overruled.

FINAL ADMINISTRATIVE DECISION AND ORDER:

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I find that the Hearing Officer's recommendations are supported by **policy** and the evidence. I adopt the recommendations of the Hearing Officer, therefore, Appeal Numbers 9959329 (OWF) and 9962664 (OWF) are **OVERRULED**.

APPENDIX:

Agency Exhibits:

- A. Appeal Summary (1 page inclusive)
- B. Appeal Narrative dated **9-7-00** (1 page inclusive)
- C. **CRIS-E** CNHD screen, "Notice History Detail," for adverse action notice mailed 8-24-00 (1 page inclusive)
- D. **CRIS-E TLIN** screen, "OWF Tie Limits Benefits" (1 page inclusive)
- E. **CRIS-E AEITL** screen, "Time Limits Countability" (1 page inclusive)
- F. **CRIS-E AEICI** screen, "Case Information" (1 page inclusive)
- G. **CRIS-E TLAG** screen(s), "OWF Time Limits- Assistance Group" (1 page inclusive)
- H. **CRIS-E AEIID**, "Individual Demographics" (1 page inclusive)
- I. **CRIS-E AEFMI**, "Monthly Unearned Income" (1 page inclusive)
- J. **CRIS-E DESX**, "Data Exchange Inquiry - SDX Information" (1 page inclusive)
- K. **CRIS-E IQCH** screens, "Cash Issuance History," for the period of 10-1-97 through 9-30-00 (3 pages inclusive)
- L. Appeal Narrative dated 10-5-00 (1 page inclusive)
- M. Agency "OWF Hardship Exemption Criteria" (3 pages inclusive)
- N. Copy of Appellant's "Hardship Exemption Review Form" signed 9-12-00 (1 page inclusive)
- O. Copy of Appellant's "Hardship Exemption Review Form" signed 10-4-00 (1 page inclusive)

Appellant Exhibits:

1. Copy of Letter from Husband's Psychologist dated 7-25-00 (1 page inclusive)
2. Copy of Husband's ODHS Form 7302, "Basic Medical" dated 7-18-00 completed by Husband's Psychologist (2 pages inclusive)
3. Copy of Husband's ODHS Form 7308, "Mental Functional Capacity Assessment," dated 7-18-00 completed by Husband's Psychologist (2 pages inclusive)
4. Copy of Agency "Report of Incapacity" dated 2-3-00 (1 page inclusive)
5. Copy of Letter from Husband's Psychologist dated 2-1-00 (1 page inclusive)
6. Copy of Agency "Report of Incapacity" dated 2-3-99 (1 page inclusive)
7. Copy of Letter from Husband's Psychologist dated 1-25-99 (1 page inclusive)
8. Copy of Agency "Report of Incapacity" dated 3-9-98 (1 page inclusive)
9. Copy of Agency "Report of Incapacity" for Husband dated 7-7-98 (1 page inclusive)
10. Copy of Caseworker's routing record comment dated 7-1-98 (1 page inclusive)
11. Copy of Agency Document Receipt dated 6-30-98 (1 page inclusive)
12. Copy of Letter from Husband's Psychologist dated 6-30-98 (1 page inclusive)
13. Copy of Letter from Husband's Psychologist dated 3-6-98 (1 page inclusive)

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A. Ruben Lopez, Hearing Authority

Date Issued: 10/20/2000

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