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OHIO DEPARTMENT OF JOBS AND FAMILY SERVICES

IN THE MATTER OF

CASE NO. 5038283767

P [REDACTED] K [REDACTED],

RESPONDENT

MEMORANDUM IN  
OPPOSITION TO SANCTION

I. INTRODUCTION

The Champaign County Department of Jobs and Family Services sent respondent P [REDACTED] K [REDACTED] a notice to impose sanctions for failing or refusing to participate in WEP (Work Experience Program). Ms. K [REDACTED] filed for this state hearing to dispute that sanction. The Champaign County Department of Jobs and Family Services claims that Ms. K [REDACTED] did not participate in WEP for two reasons: she did not work the number of hours that were required in the self-sufficiency plan and she reported October's journal and November's journal in December 2000 after the alleged due date. As will be discussed, neither of these allegations justify a sanction for respondent.

II. FACTS

P [REDACTED] K [REDACTED] is a client who has a one-year-old child, is blind in her left eye, and has recently become suicidal. She applied for Social Security Income (SSI) on August 9<sup>th</sup> due to her disabilities. Then, on October 30<sup>th</sup> Ms. K [REDACTED] applied for public assistance through the Champaign County Department of Jobs and Family Services. Her original caseworker, Betsy Kite, realized that Ms. K [REDACTED] would not be able to work in a traditional employment setting. Ms. Kite set up an alternative work plan to assist Ms. K [REDACTED] in becoming self-sufficient. Ms. K [REDACTED] signed a self-sufficiency contract (See attachment 1) with the Department, and she

discussed with Ms. Kite the different tasks she would be completing under the self-sufficiency contract. However, no one from the Department clearly explained to her what total hours she was required to work.

In order to comply with the contract she was required to keep a journal of her work activities schedule and turn this Journal in to her caseworker by the 5<sup>th</sup> of the next month. Ms. K [REDACTED] was to participate in the Work Experience Program (WEP), go to mental health counseling, and attend parenting classes. Ms. K [REDACTED] followed through in applying for SSI as required in WEP. Ms. K [REDACTED] is a patient at Consolidated Care where she receives mental health counseling. She is currently taking prozac.

Ms. K [REDACTED] signed the self-sufficiency contract on October 30, 2000. On that day Ms. Kite also told P [REDACTED] K [REDACTED] that Ms. K [REDACTED] would be assigned another caseworker sometime later. Since there was only one day left in October, and since her caseworker was leaving and would not be reviewing the journal, Ms. K [REDACTED] thought that she could turn in October's journal with November's Journal on December 5<sup>th</sup>, 2000. However, before she could do this her new caseworker, Lorna Thomas, called her about not turning October's journal in. Ms. Thomas sent a verification checklist (See attachment 2) which said that Ms. Thomas was going to propose closing the case if the journal, and other items, were not received by December 29, 2000. She handed her journal in on December 30, 2000. Then on December 27<sup>th</sup>, Ms. K [REDACTED] was informed that a sanction had been placed on her case. She and her one-year-old child would lose their benefits for three (3) months. The stated reason was that she had not performed her eighty-six (56) hours of WEP. Ms. K [REDACTED] performed the activities that were required of her in the self-sufficiency contract, however, it did not take eight-six (56) hours. This requested hearing followed.

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III. LAW AND ARGUMENT

A. When a participant completes the requirements listed in the self-sufficiency contract, but the tasks do not take as much time as anticipated because of an improper assessment of the time, or because the work requirements are so vague that misunderstandings occur, the participant, has not failed or refused to participate in WEP (Work Experience Program).

1. The Department of Jobs and Family Services is required to appraise and assess the participant and then tailor each self-sufficiency contract to the needs of the participant.

The Ohio Revised Code provides, generally, that each assistance group participating in Ohio Works First must enter into a written contract (see R.C. 5107.14). R.C. 5107.14 provides that:

the self-sufficiency contract shall set forth the rights and responsibilities of the assistance group and 'b' e designed to assist the assistance group in achieving self-sufficiency and personal responsibility.

Ohio R.C. 5107.14 further provides that before any self-sufficiency contract is entered into the County Department of Jobs and Family Services must develop a plan to achieve self-sufficiency. The plans must be based on an appraisal and assessments of the needs and capabilities of the assistance group. R.C. 5107.14 additionally provides that the appraisal may evaluate each potential participant's abilities and disabilities for employment, education, and psychological abilities. The goal is to develop a plan to achieve self-sufficiency. In other words these plans and self-sufficiency contracts are supposed to customize the placement and the hours for the needs and capabilities of the participants.

In the present case, the intent of the County Department of Jobs and Family Services was certainly good. There was a clear recognition that P [REDACTED] K [REDACTED] could not work in traditional employment, given that she was going blind and that she was suicidal. The plan and self-sufficiency contract provided for appropriate alternate work activities that were clearly aimed at addressing her needs and considering her liabilities. These alternate work activities included such things as going to counseling and applying for SSI.

Where the plan and self-sufficiency contract failed was in assessing (or failing to properly assess) how much time these activities would take. Someone can only spend so much time in one's counselor's office or doing what is required to apply for SSI. These listed alternate work activities could not realistically take the 86 hours that are listed for Ms. K [REDACTED] to perform.

2. A participant cannot be sanctioned for failing to meet the time requirements for a self-sufficiency contract if those time requirements are unrealistic.

In the present case, Ms. K [REDACTED] did comply with the self-sufficiency contract given what needed to be done under the self-sufficiency contract. She did what she was told to do and she cannot and should not be sanctioned if what she was supposed to do did not take as long as originally anticipated.

One would wonder what was she supposed to do if the time in counseling did not fill up the 86 hours. Was she supposed to go early or stay late when she went to her counseling sessions? At the very least, this should have been considered good cause to not sanction her under R.C. 5107.16.

If an activity does not fill up the time required for the self-sufficiency contract, the statutory framework does not require sanctioning the participant. The statutory framework anticipates that the contract would be modified.

R.C. 5107.14 (I) provides for procedures for assessing whether the contract should be amended. Rather than sanctioning the participant if the alternative work activities did not take the time anticipated, the plan and contract should have been modified. The participant could have been given additional meaningful activities designed to assist her. What would have been even more appropriate would have been to simply reduce the required hours to what the listed tasks would realistically take.

3. A participant cannot be sanctioned for failing to comply with a self-sufficiency contract if the failure to comply is caused by the vagueness of the self-sufficiency contract.

If someone is going to be sanctioned and deprived of public assistance, the violation should be clear and unequivocal. It was not an accident that the state statute termed what the participant must comply with a "contract." A contract is an instrument in which there is an agreement and a meeting of the mind. There cannot be an agreement or a meeting of the minds if the agreement is vague.

In this case, how could the participant have been expected to comply if her responsibilities were vague and had no beginning or ending dates? It is certainly unclear whether the 34 hours for consolidated care and the nine hours in Early Start are included in the 56 hours of the work experience program hours above. Any ambiguity in a contract should be interpreted against the party drafting the contract.

In the present case, it was certainly not clear when Ms. K. [REDACTED] was supposed to accomplish some of the items in the self-sufficiency contract or what she was supposed to do if these tasks did not end up adding up to the total amount of hours required.

Again as discussed above, if there were problems with the self-sufficiency contract, the remedy should have been to modify the contract as provided in R.C. 5107.14, not to sanction the participant.

- B. Alternate work activities do not have a minimum number of hours requirement.

The activities in Ms. K. [REDACTED]'s self-sufficiency contract were not work activities. They were appropriate for Ms. K. [REDACTED] but they were **alternate** work activities. Examples are given in R.C. 5107.64.

Alternate work activities are appropriate where “[the participant] has a temporary or permanent barrier to participation in a work activity, [the County Department of Jobs and Family Services]. . . may assign [the participant. . . to one or more alternative work activities instead of.. [a] work activity.. .” R.C. 5107.42(B). See also R.C. 5107.40 for the definition of an alternate work activity.

The significance of the present plan for Ms. K. [REDACTED] being recognized as an alternate work activity is that there is no minimum work requirement for an alternate work activity. R.C. 5107.43 lists minimum statutory hours for work activities or developmental activities but there are no minimum hours required for alternate work activities. R.C. 5107.43(C) states:

A minor head of household or adult placed in one or more alternate work activities shall participate in the activities a number of hours each week a county department determines.

It is not an accident that the statutory scheme does not provide for a minimum number of hours where there is an alternate work activity. Alternate work activities may not take as much time as work activities. The goal for alternative work activities is to overcome temporary or permanent barriers to self-sufficiency, not to participate in work activities.

If there, for example, is a psychological barrier to self-sufficiency that may be overcome by psychological counseling, it is not useful to insist that the participant spend 30 hours per week on counseling when counseling only takes 5 hours per week.

In the present case since what was contemplated were only alternate work activities, there should have been a realistic assessment as to how much time these activities would take and only that time should have been required in the self-sufficiency contract. After it was discovered that the activities were not taking as much time as originally anticipated, rather than sanctioning the participant, the self-sufficiency contract should have been amended to reflect how much time these activities realistically took.

IV. CONCLUSION

For the foregoing reasons, the respondent P [REDACTED] K [REDACTED], respectfully requests that she not be sanctioned for failing or refusing to participate in WEP (Work Experience Program).

Respectfully Submitted,

*Bret A. Tomits*

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Bret A. Tomits  
Legal Intern  
31 East High Street, Suite #300  
Springfield, Ohio 45502

*Byron K. Bonar*

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Byron K. Bonar  
Attorney I.D. = 0002602

Attachment 1  
**OHIO WORKS FIRST Self-Sufficiency Plan** *F.S.S.*

**Identifying Information:**

Agency name: <b>Champaign CDHS</b>	Assistance Group Name: <i>[Redacted]</i>	
Case Number: <i>[Redacted]</i>	Assistance Group Required Participants' Name(s): <i>[Redacted]</i>	
Appraisal/(Re) Assessment Date: <i>10-30-00</i>	Name of Participant for whom this plan applies: <i>[Redacted]</i>	SSN: <i>[Redacted]</i>

My Employment Goals: \_\_\_\_\_

My Educational Needs: \_\_\_\_\_

**My Work Responsibilities and Activity Plan:**

Work Activity	Category: R = Required A = Alternative D = Developmental	Provider	Date		Number of Hours per Month
			Start	End	
Job Search/Job Club					
Work Experience Program (WEP)	R	In H. WEP			8
Employment		Includes outside			
Individual Job Search		services in LC			
Literacy Development Services		for the at a 4.3			
ABLE					
Education & Vocational Training					
Substance Abuse/Mental Health Counseling	D	CC provided	10-3-00	3-31-01	24
On-the-Job Training/Subsidized Employment					
Parenting Class	D	Part 1, Start	10-30-00	3-31-01	4
Budgeting Class					
Other: <i>Practical Money Mgmt</i>		<i>2nd month</i>	<i>10-30-00</i>	<i>11-30-00</i>	

**My Other Responsibilities:**

- Cooperate with Child Support Enforcement Agency in establishing paternity and securing child support.  
Comments: *Letter scheduled sept court dates etc*
- Report everything know regarding the absent parent(s).  
Comments: *blended address employ etc*
- Cooperate with the Champaign County Children Services Unit.  
Comments: *by needs*

County (CDHS, CSEA, CCCS) Responsibilities: The CDHS, CSEA, or CCCS will be responsible for providing the following assistance and/or services: [Please check appropriate box(es)]

- Champaign County Department of Human Services:** Participant should initial whether or not Child Care is required.)
- OWF cash assistance     Healthchek     in-depth assessments     Child Care:    Required;    Not Required
  - Food Stamps     Medicaid     Transportation     Transitional Child Care:    Required;    Not Required

- Other CDHS supportive services to help the assistance group find employment, please specify:  
*PRP if needed & eligible*
- Other supportive services arranged for the assistance group by the CDHS, please specify:  
*1 hr xx daycare (when needed)*

Other Support Enforcement Agency:  
 Establish, monitor and enforce child support order  
 Comments: \_\_\_\_\_

**Champaign County Children Services Unit:**  
 Supportive services outlined in the Children Services case plan  
 Comments: \_\_\_\_\_

# OHIO WORKS FIRST Self-Sufficiency Contract

↳ Both Date ↓

1. This Self-Sufficiency Contract is entered into between the assistance group participants listed at the bottom right of this Contract and the Champaign County Department of Human Services (CCDHS).

Members of my assistance group and I agree that the goal of Ohio Works First is to help the assistance group: become employed, take care of our family, become self-sufficient, and take charge of our future. Ohio Works First is temporary assistance to help us reach self-sufficiency and personal responsibility. This contract is an opportunity to develop a plan, which is based on CCDHS assessments, to become independent and achieve these goals. I agree to cooperate to ensure the success of this plan. I understand that if I, or any adult member of my assistance group, refuse to sign this contract or fail to meet any of the responsibilities or work activities in this plan without good cause, I will be penalized and may become ineligible for Ohio Works First cash assistance, food stamps and in some situations, medical coverage.

2. CCDHS and I have reviewed the education and work experience of each member of my assistance group who is an adult or minor head of household, and have developed a plan to achieve self-sufficiency through unsubsidized employment. As I work towards my goal, there are ways to change my plan which I can discuss with my Employment Specialist. Any changes to the plan will become part of this original agreement when signed by both CCDHS and me.

3. All members of this assistance group and I agree that we will meet all the responsibilities in this Self-Sufficiency Contract while we are participating in Ohio Works First.

4. While participating in Ohio Works First, I understand that I am responsible for:

- Looking for and accepting a job;
- Attending all scheduled appointments and interviews and being on time;
- Cooperating with CCDHS in establishing eligibility for Ohio Works First including giving true and correct answers to all questions about my family, income and other eligibility requirements;
- Following instructions and rules at the assigned worksite unless CCDHS determines that good cause exists;
- Performing all work activities listed in the Self-Sufficiency Plan unless CCDHS determines that good cause exists;
- Reporting all job, work activity, income and family changes to CCDHS within 10 days of the change;
- Cooperating in establishing paternity and securing child support unless CCDHS determines that good cause exists;
- Reporting everything I know regarding an absent parent, if required to do so;
- Assigning my rights for support and claims, as required by law;
- Repayment and/or returning any child support paid to me in error.
- Cooperating with the Champaign County Children Services Agency, if required to do so;
- Discussing my Self-Sufficiency Contract and Plan with CCDHS if I have any questions.

5. While I am participating in Ohio Works First, I understand that I have the right to:

- Be provided with assistance and services needed to help me find and retain employment as quickly as possible but within the 36-month time limitation for cash assistance;
- Request a county grievance conference when I do not believe the assigned work activities are appropriate;
- Appeal a CCDHS action on my case by asking for a state hearing with the Ohio Department of Human Services;
- Have my eligibility determined for receipt of Medicaid, child care, food stamps or other services even if I, or members of my assistance group fail to comply with the terms of the Self-Sufficiency Contract and Plan.

6. While I am participating in Ohio Works First, CCDHS agrees that it is responsible for:

- Helping develop and improve the plan for employment, helping with job search and providing needed supportive services that are available;
- Treating all members of the assistance group with courtesy, dignity, respect and without discrimination;
- Providing members of the assistance group with an explanation of the good cause and just cause standards for failing to comply with the Self-Sufficiency Contract and Plan;
- Issuing identification cards to me when it is determined that I am eligible for temporary assistance.

7. CCDHS and I understand that under Ohio Works First:

- I may receive cash assistance for a total of 36 months only and that the 36-month period does not have to run continuously. After this, I will be ineligible for 24 consecutive months. If CCDHS determines that I have made a good faith effort to maintain self-sufficiency during the 24 months of ineligibility in Ohio Works First, I may then be eligible for more help for an additional 24 months, never to exceed 60 months total.

8. Both CCDHS and each adult member of this assistance group (or minor head of household) agree that the attached plan(s) are part of this contract. We both agree that this Self-Sufficiency Contract is binding on both of us and we will comply in full with our responsibilities under this contract and its attached plan(s).

Name	Date
Case # (case/casseq)	Date
OWF Participant	Date
OWF Participant	Date
OWF Participant	Date
CCDHS Representative	Date

# Attachment 2

DJFS 7105 (Rev. 8/00)

## APPLICATION/REAPPLICATION VERIFICATION REQUEST CHECKLIST

Assistance Group Name <i>[REDACTED]</i>	Application Date <i>10-30-00</i>	Interview Date <i>10-30-00</i>
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As discussed in your interview, there are certain eligibility factors which must be verified before the county department of job and family services can determine your eligibility for OWF FS. MED.  
Checked below are the documents you said you would provide.

- Bank books (savings, checking, etc.)
- Death Certificate
- Birth Certificate
- Divorce papers
- Identity (proof of)
- Income verification (pay stubs, court support order, self-employment records, etc.)
- Insurance policies
- Marriage certificate
- Medical form completed by doctor
- Mortgage payment book
- Pregnancy verification (including number of fetuses) *✓ 11/29/00 CB*
- Property deed
- Property taxes verification
- Rent receipt
- School attendance verification
- Social Security award letter
- Social Security cards for
- Title to motor vehicles \_\_\_\_\_
- Trust fund verification
- Unemployment compensation verification
- Utility receipts
- Veterans benefits awards letter
- Work registration
- Worker's compensation letter
- Other, specify

*M. del Campo, Jr. Co.*  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

If you are **unable to obtain** any requested **verification**, the county department of job and family services can assist you. **Contact** me immediately if you have any **difficulty** in securing the **verification**. It is **important** that you complete all **requirements** as soon as **possible**. **Assistance** cannot begin until this **information** is **received** to determine your **eligibility**. The county department of job and family services must determine your **eligibility** by *11-10-02*

If you are **pregnant** and are in **immediate need** of **health care** and your **income** is at or below the **Medicaid** **Start** standard for your **family size**, the CDJFS can determine your **eligibility** for **Expedited Medicaid** with **proof of identity** and **pregnancy**. All **Medicaid-covered** services, with the exception of **inpatient** hospital **care**, will be covered under the expedited care.

Caseworker Signature <i>[Signature]</i>	Date <i>10-30-00</i>	District <i>Cin</i>	Telephone Number <i>1-502-13416</i>
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