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**IN THE COURT OF COMMON PLEAS  
CUYAHOGA COUNTY, OHIO**

KAREN P. DE VAUGHN  
Plaintiff

OHIO DEPARTMENT OF JOB AND FAMILY  
SERVICES  
Defendant

Case No: CV-17-884631

Judge: STUART A FRIEDMAN

**JOURNAL ENTRY**

96 DISP.OTHER - FINAL

THE COURT AFFIRMS THE DECISION OF APPELLEE OHIO DEPARTMENT OF JOB AND FAMILY SERVICES.  
MEMORANDUM OF OPINION AND ORDER ATTACHED.  
COURT COST ASSESSED TO THE PLAINTIFF(S).

PURSUANT TO CIV.R. 58(B), THE CLERK OF COURTS IS DIRECTED TO SERVE THIS JUDGMENT IN A MANNER  
PRESCRIBED BY CIV.R. 5(B). THE CLERK MUST INDICATE ON THE DOCKET THE NAMES AND ADDRESSES OF ALL  
PARTIES, THE METHOD OF SERVICE, AND THE COSTS ASSOCIATED WITH THIS SERVICE.

\_\_\_\_\_  
Judge Signature

\_\_\_\_\_  
Date

- OSJ -

WINDUPT  
CLERK OF COURTS  
CUYAHOGA COUNTY

2017 DEC - 7 A 9:33

FILED

IN THE COURT OF COMMON PLEAS  
CUYAHOGA COUNTY, OHIO

KAREN DEVAUGHN	)	CASE NO. 884631
	)	
Appellant,	)	MEMORANDUM OF OPINION
	)	AND ORDER
v.	)	
	)	
OHIO DEPARTMENT OF JOB AND	)	
FAMILY SERVICES	)	
	)	
Appellee.	)	

FRIEDMAN, J.:

{¶1} This matter is before the Court on Appellant Karen DeVaughn's appeal of Appellee Ohio Department of Job and Family Services's decision to reduce her monthly food assistance amount from \$194.00 to \$16.00. The Court has carefully reviewed Appellant's brief, Appellee's brief, and Appellant's reply, together with the certified record.<sup>1</sup> The issue before the Court is whether Appellee improperly lowered Appellant's food assistance allotment during the time Appellant was receiving unemployment benefits.

FACTS

{¶2} The following facts are ascertained from the certified record:

{¶3} Appellant was receiving the monthly food assistance funds in the permitted maximum amount of \$194.00.<sup>2</sup> Appellant's food assistance amount calculation was based upon her countable household income.<sup>3</sup> She received the maximum monthly food assistance allowance (\$194.00) because she had no countable (or zero) income.<sup>4 5</sup>

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<sup>1</sup> The certified record consists of two sections: Initial Hearing Record (26 pgs.) and Administrative Appeal Record (6 pgs.).

<sup>2</sup> Initial Hearing Record, p 3.

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

{¶4} The record shows that, effective January 1, 2017, Appellant began receiving weekly unemployment benefits in the amount of \$318.00.<sup>6</sup> Countable income includes unearned income.<sup>7</sup> Unearned income in turn includes unemployment compensation.<sup>8</sup> Although Appellant's income status changed from zero income to countable income, there is no evidence that shows that she notified Appellee of her changed income status and thus, she continued receiving the maximum food assistance allotment.

{¶5} On or about March 11, 2017, Appellee received an alert, and subsequently confirmed, that Appellant was receiving unemployment compensation.<sup>9</sup> Because Appellant now had countable income, Appellee recalculated Appellant's monthly benefit amount as directed by the procedures specified in the Ohio Administrative Code 5101:4-4-27. Based upon her new monthly income, Appellant's recalculated monthly food assistance allowance was \$16.00.<sup>10</sup>

{¶6} Notice of the decrease was issued to Appellant on April 14, 2017 with an effective date of June 1, 2017.<sup>11</sup> On May 31, 2017, Appellant requested a hearing on appellee's decision.<sup>12</sup> The hearing was held on June 28, 2017.<sup>13</sup> Both Appellant and Appellee's representative appeared.<sup>14</sup> The hearing officer affirmed Appellee's decision.<sup>15</sup> Appellant again appealed.<sup>16</sup> On July 18, 2017, the hearing officer's decision was affirmed, and notice of the decision mailed to Appellant.<sup>17</sup>

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<sup>5</sup> Her employment through the older American Acts program is excluded as income.

<sup>6</sup> Initial Hearing Record, p. 14.

<sup>7</sup> Appellee's brief, p. 2, O.A.C. 5101:4-4-19(A).

<sup>8</sup> Appellee's brief, p. 2, O.A.C. 5101:4-4-19(C)(2).

<sup>9</sup> Initial Hearing Record, p 3.

<sup>10</sup> Id.

<sup>11</sup> Id.

<sup>12</sup> Id.

<sup>13</sup> Id.

<sup>14</sup> Id.

<sup>15</sup> Id., p. 6.

<sup>16</sup> Administrative Appeal Record, pgs. 5-6.

<sup>17</sup> Id., p. 3.

FINDINGS

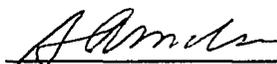
{¶7} Appellant argues that, because her unemployment income had ceased in June, 2017, before appellee issued its final decision, Appellee must restore her food assistance payments to \$194.00 beginning in June, 2017.<sup>18</sup> The record shows, and the Court finds, that Appellant was not entitled to receive \$194.00 in monthly food assistance funds while she was receiving unemployment compensation. Appellant apparently fails to comprehend this fact. If she had notified Appellee of the change in her income status as of January 1, 2017, her lowered food assistance payments would have run concurrently with her unemployment compensation. Her failure to notify Appellee resulted in her receiving overpayments.

{¶8} Appellee is permitted to recoup its overpayments to Appellant. Accordingly, Appellee decreased her food assistance payments until the overpayment amount was recovered.

{¶9} Appellant is now eligible to reapply for full restoration of her food assistance funds. Her eligibility is evidenced by the document she attaches to her response to appellee's brief – "Request to Reapply for Cash and Food Assistance".<sup>19</sup> The document shows she reapplied on October 20, 2017. The restoration of her full benefits is effective December 1, 2017.

{¶10} Accordingly, the Court affirms Appellee's decision to reduce Appellant's food assistance funds during the time she received unemployment compensation. The Court finds that Appellee's decision was supported by reliable, probative, and substantial evidence, and was in accordance with law.

IT IS SO ORDERED.

  
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JUDGE STUART A. FRIEDMAN

<sup>18</sup> Appellant's Response to Defendant Record Submitted, filed on 10/10/2017.

<sup>19</sup> Filed on 11/02/2017.

SERVICE

Pursuant to Civ.R. 58(B), the Clerk of Courts is directed to serve this judgment in a manner prescribed by Civ.R. 5(B). The Clerk must indicate on the docket the names and addresses of all parties, the method of service, and the costs associated with this service.

  
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JUDGE STUART A. FRIEDMAN