

MADISON COUNTY OWF HARDSHIP DETERMINATIONS

(These are also considered state and federal hardship extension reasons and good cause reasons)

Section 5107.18 of the revised code limits participation in Ohio Works First (OWF) to 36 months. This section also provides that Madison County may exempt not more than 20% of the average monthly number of OWF participants from the time limit due to hardship.¹ Assistance Groups (AG's) must make written or documented verbal requests for hardship exemption to the Madison County Department of Job and Family Services (MCDJFS). The determination of hardship will be made by MCDJFS.

OWF State and Federal Laws Related to Time Limits

Am.Sub.h.b. 408 adopted time-limited assistance that is more limited than the maximums allowed by federal law. Section 5107.18 of the Revised Code makes an assistance group ineligible for OWF if an assistance group includes an adult who has participated in OWF for 36 months, regardless of whether those months were consecutive. There may be some months that are excluded from the counting of the 36 months. Those exceptions are set forth in divisions (c) and (d) of section 5107.18 of the Revised Code and in rule 5101:1-23-01 of the Ohio Administrative Code (O.A.C.).

In addition to the Ohio 3-year clock ticking, there is also a federal 5-year clock ticking. Under federal law, states are prohibited from using federal TANF funds to provide assistance to a family that includes an adult who has received assistance for more than five years. As in state law, there are exceptions based on hardship or if the family includes an individual who has been battered or subject to extreme cruelty. The number of families receiving one of these exemptions may not exceed 20% of the state's average caseload. The federal provisions are found at 45 C.F.R. section 264.1 . A discussion of this regulation is found in the preamble to the federal regulations at pages 17845 to 17858 of the April 12, 1999 Federal Register, Vol. 64, No. 69.

The Process for Exempting the Twenty Percent

Madison County is prohibited by statute from exempting an assistance group under section 5107.18(E) until the assistance group has exhausted its 36-month time limit. For example, if the issuance of the 36th OWF warrant is on September 1, 2002, the county would not be able to exempt the assistance group until September 1, but state law would not prohibit the county from making that determination before October 1.

¹ See appendix for definition for hardship

While the statute prohibits the county from exempting the assistance group prior to the 36th month of cash assistance, the county is not barred from preparing for exemptions prior to the 36th month. For example, Madison County may wish to conduct face-to-face interviews of all AG's facing the time limits. This interview may be held any time prior to the 36th month. The county may wish to use an interview like this to explore barriers and solutions instead of setting it up as a sanctionable event.

Section 5107.18 of the Revised Code does not prescribe a limit to the number of months an assistance group may receive OWF due to hardship. In determining the amount of time Madison County grants a hardship exemption, the county will consider determining the duration of the exemption based on the specific reason that hardship was determined to exist.

For example, an assistance group is granted a hardship exemption because the participant was enrolled in an education or training program directly related to employment that was not complete by the expiration of the 36-month limit. The education or training program is complete three months after the hardship exemption is applied. The county will conduct an eligibility review within a month following completion of the education/training program to determine if, and for how long the hardship exemption should continue, or if assistance group meets any of the other criteria for the hardship exemption.

The county is not required to assign any specific time frame or associate a time frame with any specific condition. The duration for the exemption will be based on a county-determined time line. The county will also determine whether the hardship exemption would continue after the expiration of the assigned time frame, and under what circumstances the exemption should and should not continue. The county will also consider what intervals each AG's hardship exemption should be reviewed. The duration of the exemptions will be determined on a case by case basis with a review period not to exceed three months.

Another provision that Madison County has determined to be integral in granting hardship exemptions involves continued participation in an OWF work activity. The county will also identify AG's for which intensive case management services should be provided.

The county also will be developing a plan for future AG's who meet the county's hardship conditions, but the county is at the 20% limit for hardship exemptions. New AG's will reach the time limits each month and the county must be ready to address the exemption needs of the new population as well as those who have previously received an exemption. The county will be developing exemption priorities or provide alternative strategies to assist families when the county is unable to expand the number of AG's exempted.

Madison County will review each assistance group to examine the potential adverse impact to the health

or safety of a child if OWF cash assistance is terminated. If the county determines that the loss of OWF cash assistance would result in harm to either the health or safety of a child, the county will work with governmental agencies and community resources to address prospective needs of the child.

The Madison County Consideration of Hardship and Good Cause Conditions

In making the determination of whether the time limit imposes a hardship to the assistance group, the county will be considering many different conditions. Final determinations of whether an assistance group meets the hardship/good cause conditions set forth by the county will be made by a review committee. This committee will consist of the assistance group's OWF Caseworker, Employment Services Counselor, representatives from CSEA and Children Services and any others whose presence is deemed necessary to make the hardship/good cause determination. A hardship/good cause exemption review form will be used by the committee to document the exemption determination. AG's will be asked to sign a waiver if they have refused services offered. All services offered, either refused or accepted, must be documented for future reference.

In all of the following conditions that we have identified, one condition is universal. That condition is that the assistance group has satisfactorily completed, or has not failed without good cause, to comply with the provisions contained in the self-sufficiency contract. This means that the assistance group members have not failed without good cause to participate as assigned, and have not been sanctioned in the previous twelve month period.

Good Cause

An assistance group may be granted an extension of OWF assistance payments under "good cause"² provisions after at least 24 months have passed since reaching Ohio's 36 month OWF time limit if the AG meets one or more of the criteria defined by the MCDJFS. Key points to remember regarding good cause are:

- There is a 24 month "waiting period" for good cause issues after an OWF AG has reached their 36 month time limit. The 24 month period starts the month after the AG's 36th month and ends 24 months thereafter.
- The 24 month "waiting period" does not require the AG to have a 24 month break in receipt of OWF because a county/state hardship extension can be provided to the AG during the "waiting period" for the 36th month time limit.
- An OWF AG can only qualify for good cause extension for a 24 month time period (if all other

² See appendix for definition of good cause.

- OWF eligibility has been met).
- Months of OWF received due to hardship extension count toward the 24 month time period under good cause.
- Once eligibility under good cause is established, no subsequent determination of good cause shall be made as long as all other OWF eligibility requirements continue to be met.
- If an AG is sanctioned during the good cause period for not following their self sufficiency contract (SSC), and then cures that sanction - no new application or determination of good cause is necessary to re-establish OWF eligibility.
- If an AG loses OWF eligibility while receiving a good cause extension for any reason other than a SSC **and** there is at least a one day interruption in assistance, a new determination of eligibility for OWF and good cause must be made. *Ex.: Re-application due 11/12/02 client fails to keep appointment. Case is closed 11/30/02. Client reschedules appointment on 12/3/02. Good cause and OWF must be reestablished.*
- An OWF AG cannot receive OWF assistance for more than 60 months unless they are eligible for a federal hardship.
- Good cause and state hardship extensions count toward the federal 60 month time limit.

The conditions we have identified in the following hardship/good cause criteria are grouped into three categories:

1. Demographic
2. Physical, Social or Psychological
3. Employment-Related Conditions.

Demographic Challenges

- ž For hardship, the individual is a teen parent head of household, and has not received 24 months of OWF cash assistance following the teen's receipt of a high school diploma or equivalent.
- ž For good cause, teen parent head of household.
- ž The individual is a single custodial parent caring for a *special /exceptional needs child*³ and appropriate special/exceptional needs child care has not been available.
- ž The individual is providing care for a disabled adult family member and acceptable arrangements for care are not available.

³See appendix for definition of special needs child and exceptional needs child.

- ž The individual is a caretaker who is over 60 years of age.

Physical, Social or Psychological Challenges

- ž The individual has not been able to participate in assigned work activities due to a diagnosed learning disability or physical/mental incapacity that has been verified by a licensed physician or determined by a qualified mental health provider.
- ž Pregnant mothers who are physically unable to work due to pregnancy, as verified by a licensed physician.
- ž The individual has documented on-going medical/mental health issues, has applied for SSI prior to exhaustion of OWF cash benefits and is actively awaiting SSI determination. Cases identified as having potential SSI eligibility will be referred to our SSI Case manager who will assist individuals in establishing their eligibility for SSI.
- ž The individual is a victim of domestic violence and is cooperative in and actively participating in a recovery plan that is closely monitored by the appropriate social service agency.

Employment-Related Challenges

- ž The individual is enrolled full-time, by the course standards, in an education or training program directly related to employment which will not be completed by the expiration of the 36-month time limit for hardship, or 60-month federal time limit for good cause.
- ž The individual has significant barriers, or unique personal circumstances to employment such as, but not limited to: lack of available childcare, special/exceptional needs childcare, underemployment or transportation services.

Appendix

I. Definitions

Hardship

The Black's Law Dictionary definition of "hardship" is "in general privation, suffering, or adversity." Webster's definition of "hardship" is something that causes or entails suffering or privation

Cause

The Black's Law Dictionary defines "cause" as "something that produces an effect or result"

Good Cause

The Black's Law Dictionary defines "good cause" as "a legally sufficient reason" and that "good cause" is often the burden placed on a litigant "to show why a request should be granted or an action excused."

Special needs child includes:

- 1) Children who suffer from pronounced physical condition for which a physician has indicated that the child requires a high degree of physical care or supervision, or
- 2) Children who have pronounced behavior problems for which a licensed/certified professional, including a physician, psychiatrist, psychologist, licensed social worker has indicated that the child needs a high level of individual supervision and care.

Exceptional needs child includes:

- 1) Children who require, as indicated by a physician, constant twenty-four-hour a day supervision provided by nurses or persons closely supervised by nurses or physicians, or
- 2) Children who have severe behavior problems characterized by violence towards themselves, other persons or their physical surroundings and for whom a psychiatrist has indicated that the child needs a high level of individual supervision, or
- 3) Children who have been diagnosed by a licensed/certified professional as having severe mental disabilities, such as child schizophrenia, severe mental retardation or autism.

