

IN THE OHIO DEPARTMENT OF JOB AND FAMILY SERVICES  
BUREAU OF STATE HEARINGS

ADMINISTRATIVE APPEAL SECTION

IN RE APPEAL OF:

DOCKET NO. 2005-AA-1160  
APPEAL NO(S). 1256894 / MED  
AG NO. HEARING REQUEST DATE: 11/14/2005  
HEARING DECISION DATE: 11/29/2005 / **GRS**  
APPEAL REQUEST DATE: 12/12/2005  
AGENCY: **Montgomery** CDJFS

**Administrative Appeal Decision**

The Appellant requests an administrative appeal of the state hearing dismissal issued on November 29, 2005. The Appellant's state hearing was dismissed because neither the Appellant nor her authorized representative attended the state hearing scheduled for November 28, 2005 at 1:30 p.m. The dismissal letter states that the Appellant had until 12/09/05 to request that the hearing be rescheduled. The Appellant's request for an administrative appeal was received 12/12/05. The Appellant states that she called a dozen times to have the hearing rescheduled due to a conflicting medical appointment and that her calls were never returned. The Appellant indicated that she called 1866 635 3748 and that no answered or returned her messages. The state hearing record contains no notations of any calls by the Appellant or her representative.

Ohio Admin. Code 5101:6-5-03 states, "A request for a state hearing may be dismissed if the state hearing request is "abandoned." A state hearing is abandoned when the individual fails, without good cause, to attend the state hearing. The rule defines good cause as:

"Good cause" is defined as death in the immediate family, sudden illness or injury of the individual or a member of the individual's immediate family, or other circumstances which reasonably prevented attendance at the hearing.

The rule further provides that the Appellant has ten days to show they had good cause for failing to attend the hearing.<sup>1</sup> The rule specifically states that:

The hearing shall be rescheduled if the individual or authorized representative contacts the hearing authority, in writing or by telephone, within the ten-day period and establishes good cause.

The Appellant is alleging good cause for failing to attend the state hearing and states that she did attempt to contact the Bureau of State Hearings by phone both prior to the state hearing and

<sup>1</sup> Ohio Admin. Code 5101:6-5-3(E)(2)(a)

after receiving the dismissal notice to have the hearing rescheduled. Given that the Appellant was unable to contact the Bureau by phone, the reschedule request should be treated as timely. The Hearings Supervisor should contact the Appellant to determine if good cause exists for the Appellant's failure to attend the 11/28/05 hearing.

### Decision

The dismissal of a state hearing request related to Appeal Number 1256894 is VACATED and REMANDED to the Columbus District Office Hearings Unit with instructions to contact the Appellant to determine if good cause exists for the Appellant's failure to attend the 11/28/05 hearing. If the Appellant had good cause, the state hearing shall be rescheduled. If no good cause exists, the reschedule request should be denied in writing and the hearing dismissed. Appellant retains all rights of appeal from the resultant decision to be issued.



Margaret Adams  
Administrative Appeal Officer

**CONCUR:**



Robert J. Frankart  
Administrative Appeal Officer



Robert Mulina, Attorney-at-Law  
Chief Legal Counsel

DATE OF ISSUANCE December 21, 2005

This Administrative Appeal decision is the final decision on this appeal from the state department of job & family services. It is binding on the department and agency, unless it is reversed or modified on appeal to the court of common pleas.

An Appellant who disagrees with this decision may appeal it to the court of common pleas pursuant to sections 119.12 and 5101.35(E) of the Revised Code. The Appellant shall mail a notice of appeal to the department at the following address:

**Ohio Department of Job & Family Services  
Office of Legal Services  
30 E. Broad Street, 31<sup>st</sup> Floor  
Columbus, OH 43215-3414**

The Appellant must also file the notice of appeal with the court of common pleas in the county in which the Appellant resides (Franklin County, if the Appellant does not reside in Ohio). Please note: Both the mailing to the department and the filing with the court must occur within thirty (30) calendar days of the date of issuance of this decision.

If you have questions about appealing to a court, contact your attorney, local legal aid society, or bar association. If you want information about free legal services, you can call the Ohio State Legal Services Association, toll free, at 1-800-589-5888.

cc: Director, Montgomery County Department of Job and Family Services  
Hearings Supervisor, GRS, Bureau of State Hearings  
Anita Fogle  
Appellant