

**IN THE OHIO DEPARTMENT OF JOB AND FAMILY SERVICES  
BUREAU OF STATE HEARINGS  
ADMINISTRATIVE APPEAL DIVISION**

**IN RE APPEAL OF:**

DOCKET NO.	2005-AA-0089
APPEAL No(s).	1199604 / OWF
AG No.	
HEARING REQUEST DATE:	11/01/2004
HEARING DECISION DATE:	01/18/2005
APPEAL REQUEST DATE:	01/26/2005
APPEAL DECISION DATE:	02/10/2005
<b>Franklin CDJFS</b>	

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**Administrative Appeal Decision**

By request received January 26, 2005, the Appellant has requested an administrative appeal of the state hearing dismissal issued January 18, 2005. The Appellant's state hearing request was dismissed because the Appellant failed to appear for the state hearing scheduled 01/05/05 without good cause. The Appellant states that he spoke with Columbus Hearing Supervisor Ruben Lopez on 01/14/05 prior to the dismissal and was told that the hearing would be rescheduled and that he could participate by phone.

The Appellant requested a state hearing on 11/01/04 regarding the 10/08/04 proposal to terminate his Ohio Works First cash assistance (OWF). The Appellant's hearing was initially scheduled for 11/22/04. The Appellant failed to appear for that hearing, but he called on 11/22/04 and stated that he was ill and could not attend. The Appellant's hearing was rescheduled for 01/05/05. The Appellant again failed to attend. On 01/12/05 the Appellant again requested a reschedule, stating again that he was sick and could not attend. The Appellant claims that he spoke to Columbus Hearings Supervisor Ruben Lopez and was told the hearing would be rescheduled. On 01/18/05 Columbus Hearing supervisor Anita Fogle spoke with the Appellant and sent him a follow-up letter denying the Appellant's reschedule. The letter states:

In talking with you today, when questioned about seeing a physician, you first stated that you believed that while you did not go to the doctor on the day of the hearing you did go within the week the hearing was scheduled. When verification was requested, you then stated in looking at your calendar, you did not see a physician on the day or in the week your hearing was scheduled.

The Supervisor concluded that good cause was not established.

Ohio Admin. Code 5101:6-5-03 provides that a state hearing may be dismissed if the request is abandoned. A state hearing request is "abandoned" when the individual or authorized

representative fails, without good cause, to attend the state hearing. There is no question that the Appellant failed to attend the 01/05/05 hearing. Ohio Admin. Code 5101:6-5-03 defines "Good cause" 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 Appellant claims to have been ill on the day of the hearing, but states that he did not go to the doctor. He states in his administrative appeal request that he is sick every day and goes to the doctor a couple of times a month. It would seem reasonable, therefore, that the Appellant would be able to provide verification of his chronic illness when verification was requested by the Hearings Supervisor. Additionally, it is notable that the Appellant did not call to reschedule the hearing for a week after the scheduled hearing date. If the Appellant was ill on the scheduled hearing date, the Appellant should have called on that date. Taking into consideration all of the foregoing factors, we agree that the Appellant has not established good cause for his failure to attend the 01/05/05 state hearing.

### DECISION

Accordingly, we must ORDER that the state hearing decision be AFFIRMED.




Margaret Adams  
Administrative Appeal Officer

**CONCUR:**



Robert J. Frankart  
Administrative Appeal Officer



Chris Barley, Attorney-at-Law  
Chief Administrative Hearing Officer

DATE OF ISSUANCE February 3, 2005

This Administrative Appeal Decision is the final administrative decision on your case from the Ohio Department of Job and Family Services. If you disagree with this decision, you may have the right to appeal to common pleas court pursuant to Section 5101.35 of the Ohio Revised Code. Your appeal must be filed within thirty days of the date this decision was issued to you. 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, Franklin County Department of Job and Family Services  
Hearings Supervisor  
Bureau of State Hearings  
Anita Fogle  
Appellant